**Comparison of the 1991 *Broadcasting Act*, 30 Sept/22 Bill C-11-3 (*Online Streaming Act*) and**

**Bill C-11 as passed by the Senate on 14 December 2022**

| **Cell #** | **Current 1991 statute** | **Bill C-11-3 (30 September 2022)** | **Bill C-11 as am. by TRCM (14 Dec/22) and as passed by Senate (**[**2 Feb/23**](https://sencanada.ca/en/content/sen/chamber/441/journals/096jr_2023-02-02-e)**)** |
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| **Grey shading:  absent in 1991 Act or C-11-3** | **Blue font: different from 1991 Act** | ***GREEN, ITALICIZED FONT:* changed by TRCM and approved by Senate** |
| 2 | 1 This Act may be cited as the Broadcasting Act. |  |  |
| 3 | **PART I *[Interpretation, Broadcasting Policy, Application]*** |  |  |
| 4 | **General** |  |  |
| 5 | **Interpretation** |  |  |
| 6 | **Marginal note: Definitions** |  |  |
| 7 | 2 (1) In this Act, | 2 (1) In this Act, | 2 (1) In this Act, |
| 8 |  | **affiliate**, in relation to any person, means any other person who controls that first person, or who is controlled by that first person or by a third person who also controls the first person; (affilié) | ***affiliate***, in relation to any person, means any other person who controls that first person, or who is controlled by that first person or by a third person who also controls the first person; (*affilié*) |
| 9 |  | **barrier** has the same meaning as in section 2 of the Accessible Canada Act; (obstacle) | ***barrier*** has the same meaning as in section 2 of the *Accessible Canada Act*; (*obstacle*) |
| 10 | ***~~broadcasting~~***~~means any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place; (radiodiffusion)~~ | **broadcasting** means any transmission of programs — regardless of whether the transmission is scheduled or on demand or whether the programs are encrypted or not — by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place; (radiodiffusion) | ***broadcasting*** means any transmission of programs — regardless of whether the transmission is scheduled or on demand or whether the programs are encrypted or not — by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place; (*radiodiffusion*) |
| 11 | ***broadcasting receiving apparatus*** means a device, or combination of devices, intended for or capable of being used for the reception of broadcasting; (récepteur) | **broadcasting receiving apparatus** means a device, or combination of devices, intended for or capable of being used for the reception of broadcasting; (récepteur) | ***broadcasting receiving apparatus*** means a device, or combination of devices, intended for or capable of being used for the reception of broadcasting; (récepteur) |
| 12 | ***~~broadcasting undertaking~~***~~includes a distribution undertaking, a programming undertaking and a network; (entreprise de radiodiffusion)~~ | **broadcasting undertaking** includes a distribution undertaking, an online undertaking, a programming undertaking and a network; (entreprise de radiodiffusion) | ***broadcasting undertaking*** includes a distribution undertaking, an online undertaking, a programming undertaking and a network; (entreprise de radiodiffusion) |
| 13 | ***Commission*** means the Canadian Radio-television and Telecommunications Commission established by the *Canadian Radio-television and Telecommunications Commission Act*; (Conseil) | **Commission** means the Canadian Radio-television and Telecommunications Commission established by the Canadian Radio-television and Telecommunications Commission Act; (Conseil) | ***Commission*** means the Canadian Radio-television and Telecommunications Commission established by the *Canadian Radio-television and Telecommunications Commission Act*; (Conseil) |
| 14 |  | **community element** includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community including a not-for-profit broadcasting undertaking that is managed by a board of directors elected by the community; (élément communautaire) | ***community element*** includes the ***PARTICIPATION OF MEMBERS OF THE COMMUNITY, THROUGH VOLUNTEERS AND A COMMUNITY BOARD SELECTED BY MEMBERS, IN THE CURRENT PRODUCTION OF COMMUNITY MEDIA IN THE LANGUAGE OF THEIR CHOICE, AS WELL AS IN THE DAY-TO-DAY OPERATIONS AND ADMINISTRATION OF NOT-FOR-PROFIT COMMUNITY MEDIA ENTITIES RESPONDING TO THE NEEDS OF THE CO MMUNITY THEY SERVE***; (élément communautaire) |
| 15 |  | **control,** in the definition affiliate, in paragraph 9.1(1)(m) and in subparagraph 9.1(1)(n)(i), includes control in fact, whether or not through one or more persons; (contrôle) | ***control*,** in the definition *affiliate*, in paragraph 9.1(1)(m) and in subparagraph 9.1(1)(n)(i), includes control in fact, whether or not through one or more persons; (contrôle) |
| 16 | ***Corporation*** means the Canadian Broadcasting Corporation continued by section 36; (Société) | **Corporation** means the Canadian Broadcasting Corporation continued by section 36; (Société) | ***Corporation*** means the Canadian Broadcasting Corporation continued by section 36; (Société) |
| 17 |  | **decision means any measure of any kind taken by the Commission. (decision)** | ***DECISION INCLUDES A DETERMINATION MADE BY THE COMMISSION IN ANY FORM; (décision)*** |
| 18 | ***distribution undertaking*** means an undertaking for the reception of broadcasting and the retransmission thereof by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking; (entreprise de distribution) | **distribution undertaking** means an undertaking for the reception of broadcasting and its retransmission by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking, but does not include such an undertaking that is an online undertaking; (entreprise de distribution) | ***distribution undertaking*** means an undertaking for the reception of broadcasting and its retransmission by radio waves or other means of telecommunication to *more than one* permanent or temporary residence or dwelling unit or to another such undertaking, but does not include such an undertaking that is an online undertaking; (entreprise de distribution) |
| 19 | ***encrypted*** means treated electronically or otherwise for the purpose of preventing intelligible reception; (encodage) | **encrypted** means treated electronically or otherwise for the purpose of preventing intelligible reception; (encodage) | ***encrypted*** means treated electronically or otherwise for the purpose of preventing intelligible reception; (encodage) |
| 20 |  | **Indigenous peoples** has the meaning assigned by the definition aboriginal peoples of Canada in subsection 35(2) of the Constitution Act, 1982; (peuples autochtones) | ***Indigenous peoples*** has the meaning assigned by the definition aboriginal peoples of Canada in subsection 35(2) of the *Constitution Act, 1982*; (peuples autochtones) |
| 21 | ***licence*** means a licence to carry on a broadcasting undertaking issued by the Commission under this Act; (licence) | **licence** means a licence to carry on a broadcasting undertaking issued by the Commission under this Act; (licence) | ***licence*** means a licence to carry on a broadcasting undertaking issued by the Commission under this Act; (licence) |
| 22 | ***Minister*** means such member of the Queen’s Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act; (ministre) | **Minister** means such member of the Queen’s Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act; (ministre) | ***Minister*** means such member of the Queen’s Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act; (ministre) |
| 23 | ***~~network~~***~~includes any operation where control over all or any part of the programs or program schedules of one or more broadcasting undertakings is delegated to another undertaking or person; (réseau)~~ | **network** includes any operation where control over all or any part of the programs or program schedules of one or more broadcasting undertakings is delegated to another undertaking or person, but does not include such an operation that is an online undertaking; (réseau) | ***network*** includes any operation where control over all or any part of the programs or program schedules of one or more broadcasting undertakings is delegated to another undertaking or person, but does not include such an operation that is an online undertaking; (réseau) |
| 24 |  | ***official language minority community*** means English-speaking communities in Quebec and French-speaking communities outside Quebec; (communauté de langue officielle en situation minoritaire)” | ***official language minority community*** means English-speaking communities in Quebec and French-speaking communities outside Quebec; (communauté de langue officielle en situation minoritaire)” |
| 25 |  | **online undertaking** means an undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus; (entreprise en ligne) | ***online undertaking***means an undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus; (entreprise en ligne) |
| 26 | ***program*** means sounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text; (émission) | **program** means sounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text; (émission) | ***program*** means sounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text; (émission) |
| 27 |  | ***programming control*** means control over the selection of programs for transmission, but does not include control over the selection of a programming service for retransmission; (contrôle de la programmation) | ***programming control*** means control over the selection of programs for transmission, but does not include control over the selection of a programming service for retransmission; (contrôle de la programmation) |
| 28 | ***~~programming undertaking~~***~~means an undertaking for the transmission of programs, either directly by radio waves or other means of telecommunication or indirectly through a distribution undertaking, for reception by the public by means of broadcasting receiving apparatus; (entreprise de programmation)~~ | **programming undertaking** means an undertaking for the transmission of programs, either directly by radio waves or other means of telecommunication or indirectly through a distribution undertaking, for reception by the public by means of broadcasting receiving apparatus, but does not include such an undertaking that is an online undertaking; (entreprise de programmation) | ***programming undertaking*** means an undertaking for the transmission of programs, either directly by radio waves or other means of telecommunication or indirectly through a distribution undertaking, for reception by the public by means of broadcasting receiving apparatus, but does not include such an undertaking that is an online undertaking; (entreprise de programmation) |
| 29 | ***radio waves*** means electromagnetic waves of frequencies lower than 3 000 GHz that are propagated in space without artificial guide; (ondes radioélectriques) | **radio waves** means electromagnetic waves of frequencies lower than 3 000 GHz that are propagated in space without artificial guide; (ondes radioélectriques) | ***radio waves*** means electromagnetic waves of frequencies lower than 3 000 GHz that are propagated in space without artificial guide; (ondes radioélectriques) |
| 30 | ***temporary*** ***network*** ***operation*** means a network operation with respect to a particular program or a series of programs that extends over a period not exceeding sixty days. (exploitation temporaire d’un réseau) | **temporary network operation** means a network operation with respect to a particular program or a series of programs that extends over a period not exceeding sixty days. (exploitation temporaire d’un réseau) | ***temporary network operation*** means a network operation with respect to a particular program or a series of programs that extends over a period not exceeding sixty days. (exploitation temporaire d’un réseau) |
| 31 |  | **Exclusion — carrying on broadcasting undertaking** |  |
| 32 |  | 2(2.1) A person who uses a social media service to upload programs for transmission over the Internet and reception by other users of the service — and who is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them — does not, by the fact of that use, carry on a broadcasting undertaking for the purposes of this Act. | 2(2.1) A person who uses a social media service to upload programs for transmission over the Internet and reception by other users of the service — and who is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them — does not, by the fact of that use, carry on a broadcasting undertaking for the purposes of this Act. |
| 33 |  | **Exclusion – social media service and programming control** |  |
| 34 |  | 2(2.2) An online undertaking that provides a social media service does not, for the purposes of this Act, exercise programming control over programs uploaded by a user of the service who is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them. | 2(2.2) An online undertaking that provides a social media service does not, for the purposes of this Act, exercise programming control over programs uploaded by a user of the service who is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them. |
| 35 |  | **Exclusion — certain transmissions over the Internet** |  |
| 36 |  | 2(2.3) A person does not carry on an online undertaking for the purposes of this Act in respect of **a** transmission of programs over the Internet | 2(2.3) A person does not carry on an online undertaking for the purposes of this Act in respect of a transmission of programs over the Internet |
| 37 |  | (a) that is ancillary to a business not primarily engaged in the transmission of programs to the public and that is intended to provide clients with information or services directly related to that business; | (a) that is ancillary to a business not primarily engaged in the transmission of programs to the public and that is intended to provide clients with information or services directly related to that business; |
| 38 |  | (b) that is part of the operations of a primary or secondary school, a college, university or other institution of higher learning, a public library or a museum; or | (b) that is part of the operations of a primary or secondary school, a college, university or other institution of higher learning, a public library or a museum; or |
| 39 |  | (c) that is part of the operations of a theatre, concert hall or other venue for the presentation of live performing arts. | (c) that is part of the operations of a theatre, concert hall or other venue for the presentation of live performing arts. |
| 40 | **Marginal note: Meaning of other means of telecommunication** |  |  |
| 41 | (2) For the purposes of this Act, other means of telecommunication means any wire, cable, radio, optical or other electromagnetic system, or any similar technical system. | (2) For the purposes of this Act, other means of telecommunication means any wire, cable, radio, optical or other electromagnetic system, or any similar technical system. | (2) For the purposes of this Act, other means of telecommunication means any wire, cable, radio, optical or other electromagnetic system, or any similar technical system. |
| 42 | **Marginal note: Interpretation** |  |  |
| 43 | ~~(3) This Act~~ **~~shall~~** ~~be construed and applied in a manner that is consistent with the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings.~~ | (3) This Act **shall** be construed and applied in a manner that is consistent with | (3) This Act **shall** be construed and applied in a manner that is consistent with |
| 44 |  | (a) the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings; and | (a) the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings **and creators**; and |
| 45 |  |  | ***(b) THE RIGHT TO PRIVACY OF INDIVIDUALS;*** |
| 46 |  | (b) the commitment of the Government of Canada to enhance the vitality of official language communities and to support and assist their development, as well as to foster the full recognition and use of both English and French in Canadian society. | **(c) *THE COMMITMENT OF THE GOVERNMENT OF CANADA TO*** enhance the vitality of official language communities and to support and assist their development, as well as to foster the full recognition and use of both English and French in Canadian society. |
| 47 | **Broadcasting Policy for Canada** |  |  |
| 48 | **Marginal note: Declaration** |  |  |
| 49 | 3 (1) It is hereby declared as the broadcasting policy for Canada that | 3 (1) It is hereby declared as the broadcasting policy for Canada that | 3 (1) It is hereby declared as the broadcasting policy for Canada that |
| 50 | ~~(a) the Canadian broadcasting system~~ **~~shall~~** ~~be effectively owned and controlled by Canadians;~~ | (a) the Canadian broadcasting system **shall** be effectively owned and controlled by Canadians, and it is recognized that it includes foreign broadcasting undertakings that provide programming to Canadians; | (a) the Canadian broadcasting system **shall** be effectively owned and controlled by Canadians, and it is recognized that it includes foreign broadcasting undertakings thatprovide programming to Canadians; |
| 51 |  | (a.1) each broadcasting undertaking **shall** contribute to the implementation of the objectives of the broadcasting policy set out in this subsection in a manner that is appropriate in consideration of the nature of the services provided by the undertaking; | (a.1) each broadcasting undertaking **shall** contribute to the implementation of the objectives of the broadcasting policy set out in this subsection in a manner that is appropriate in consideration of the nature of the services provided by the undertaking; |
| 52 | (b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty; | (b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty; | (b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty; |
| 53 | ~~(c) English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;~~ | (c) while sharing common aspects, English and French language broadcasting operate under different conditions — in particular, the minority context of French in North America — and may have different requirements; | (c) while sharing common aspects, English and French language broadcasting operate under different conditions — in particular, the minority context of French in North America — and may have different requirements; |
| 54 | (d) the Canadian broadcasting system should | (d) the Canadian broadcasting system should | (d) the Canadian broadcasting system should |
| 55 | (i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada, | (i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada, | (i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada, |
| 56 | ~~(ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view,~~ | (ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view, and foster an environment that encourages the development and export of Canadian programs globally, | (ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view, and foster an environment that encourages the development and export of Canadian programs globally, |
| 57 | ~~(iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society, and~~ | (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests of all Canadians — including Canadians fromracialized communities and Canadians of diverse ethnocultural backgrounds, socioeconomic statuses, abilities and disabilities, sexual orientations, gender identities and expressions, and ages — and reflect their circumstances and aspirations, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous peoples within that society, | (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests of all Canadians — including Canadians from ***BLACK OR OTHER*** racialized communities and Canadians of diverse ethnocultural backgrounds, socioeconomic statuses, abilities and disabilities, sexual orientations, gender identities and expressions, and ages — and reflect their circumstances and aspirations, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous peoples ***AND LANGUAGES*** within that society, |
| 58 |  | (iii.1) provide opportunities to Indigenous persons to produce programming in Indigenous languages, English or French, or in any combination of them, and to carry on broadcasting undertakings, and | (iii.1) provide opportunities to Indigenous persons to produce programming in Indigenous languages, English or French, or in any combination of them, and to carry on broadcasting undertakings, and |
| 59 |  | (iii.11) provide opportunities to Black and other racialized persons in Canada by taking into account their specific needs and interests, namely, by supporting the production and broadcasting of original programs by and for Black and other racialized communities, | (iii.11) provide opportunities to Black and other racialized persons in Canada by taking into account their specific needs and interests, namely, by supporting the production and broadcasting of original programs by and for Black and other racialized communities, |
| 60 |  | (iii.2) support the production and broadcasting of original French language programs, | (iii.2) support the production and broadcasting of *original French language programs*, |
| 61 |  | (iii.3) enhance the vitality of official language minority communities in Canada and support and assist their development by taking into account their particular needs and interests — in particular that French is a minority language in Canada and that English is a minority language in Quebec — including through supporting the production and broadcasting of original programs by and for those communities, | (iii.3) enhance the vitality of official language minority communities ***in Canada and*** support and assist their development by taking into account their particular needs and interests — in particular that French is a minority language in Canada and that English is a minority language in Quebec — including through supporting the production and broadcasting of original programs by and for those communities, |
| 62 |  | (iii.4) support community broadcasting that reflects both the diversity of the communities being served**, including with respect to the languages in use within those communities and to their ethnocultural and Indigenous composition, and the high engagement and involvement in community broadcasting by members of those communities, including with respect to matters of public concern,** | (iii.4) support community broadcasting that reflects both the diversity of the communities being served***, including with respect to the languages in use within those communities and to their ethnocultural and Indigenous composition, and the high engagement and involvement in community broadcasting by members of those communities, including with respect to matters of public concern,*** |
| 63 |  | (iii.5) ensure that Canadian independent broadcasting undertakings continue to be able to play a vital role within that system, | (iii.5) ensure that Canadian independent broadcasting undertakings continue to be able to play a vital role within that system, |
| 64 |  | (iii.6) support the production and broadcasting of programs in a diversity of languages that reflect racialized communities and the diversity of the ethnocultural composition of Canadian society, including through broadcasting undertakings that are carried on by Canadians from racialized communities and diverse ethnocultural backgrounds, | (iii.6) support the production and broadcasting of programs in a diversity of languages that reflect ***BLACK AND OTHER*** racialized communities and the diversity of the ethnocultural composition of Canadian society, including through broadcasting undertakings that are carried on by Canadians from ***BLACK AND OTHER*** racialized communities and diverse ethnocultural backgrounds, |
| 65 |  | (iii.7) provide opportunities to Canadians from racialized communities and diverse ethnocultural backgrounds to produce and broadcast programs by and for those communities, | (iii.7) provide opportunities to Canadians from ***BLACK OR OTHER*** racialized communities and diverse ethnocultural backgrounds to produce and broadcast programs by and for those communities, |
| 66 | (iv) be readily adaptable to scientific and technological change; | (iv) be readily adaptable to scientific and technological change; | (iv) ***PROMOTE INNOVATION AND BE READILY*** *adaptable to scientific and* technological change; |
| 67 |  |  | ***(v) REFLECT AND BE RESPONSIVE TO THE PREFERENCES AND INTERESTS OF VARIOUS AUDIENCES, AND*** |
| 68 |  |  | ***(vi) ENSURE FREEDOM OF EXPRESSION AND JOURNALISTIC INDEPENDENCE;*** |
| 69 | (e) each element of the Canadian broadcasting system **shall** contribute in an appropriate manner to the creation and presentation of Canadian programming; | (e) each element of the Canadian broadcasting system **shall** contribute in an appropriate manner to the creation and presentation of Canadian programming; | (e) each element of the Canadian broadcasting system **shall** contribute in an appropriate manner to the creation and presentation of Canadian programming; |
| 70 | ~~(f) each broadcasting undertaking~~ **~~shall~~** ~~make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking~~ **~~shall~~** ~~make the greatest practicable use of those resources;~~ | (f) each Canadian broadcasting undertaking **shall** employ and make maximum use, and in no case less than predominant use, of Canadian creative and other human resources in the creation, production and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking **shall** make the greatest practicable use of those resources; | (f) each Canadian broadcasting undertaking **shall** employ and make maximum use, and in no case less than predominant use, of Canadian creative and other human resources in the creation, production and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking **shall** make the greatest practicable use of those resources; |
| 71 |  | (f.1) each foreign online undertaking **shall** make the greatest practicable use of Canadian creative and other human resources, and **shall** contribute in an equitable manner to strongly support the creation, production and presentation of Canadian programming, taking into account the linguistic duality of the market they serve; | (f.1) each foreign online undertaking **shall** make the greatest practicable use of Canadian creative and other human resources, and **shall** contribute in an equitable manner to strongly support the creation, production and presentation of Canadian programming, taking into account the linguistic duality of the market they serve; |
| 72 | ~~(g) the programming originated by broadcasting undertakings should be of high standard;~~ | (g) the programming over which a person who carries on a broadcasting undertaking has programming control should be of high standard; | (g) the programming over which a person who carries on a broadcasting undertaking has programming control should be of high standard; |
| 73 | ~~(h) all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast;~~ | (h) all persons who carry on broadcasting undertakings have a responsibility for the programs that they broadcast and over which they have programming control; | (h) all persons who carry on broadcasting undertakings have a responsibility for the programs that they broadcast and over which they have programming control; |
| 74 | (i) the programming provided by the Canadian broadcasting system should | (i) the programming provided by the Canadian broadcasting system should | (i) the programming provided by the Canadian broadcasting system should |
| 75 | ~~(i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes,~~ | (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for people of all ages, interests and tastes, | (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for people of all ages, interests and tastes, |
| 76 |  | (i.1) recognize and support Canada’s linguistic duality by placing significant importance on the creation, production and broadcasting of original French language programs, including those from French linguistic minority communities | (i.1) recognize and support Canada’s linguistic duality by placing significant importance on the creation, *production and broadcasting of original French language programs, including those from French lin*guistic minority communities |
| 77 | ~~(ii) be drawn from local, regional, national and international sources,~~ | (ii) be drawn from local, regional, national and international sources, including, at the local level, from community broadcasters who, through collaboration with local organizations and community members, are in the unique position of being able to provide varied programming to meet the needs of specific audiences, | (ii) be drawn from local, regional, national and international sources, including, at the local level, from community broadcasters who, through collaboration with local organizations and community members, are in the unique position of being able to provide varied programming to meet the needs of specific audiences, |
| 78 |  | (ii.1) include programs produced by Canadians that cover news and current events — from the local and regional to the national and international — and that reflect the viewpoints of Canadians, including the viewpoints of Indigenous persons and of Canadians from racialized communities and diverse ethnocultural backgrounds; | (ii.1) include programs produced by Canadians that cover news and current events — from the local and regional to the national and international — and that reflect the viewpoints of Canadians, including the viewpoints of Indigenous persons and of Canadians from ***BLACK OR OTHER*** racialized communities and diverse ethnocultural backgrounds; |
| 79 |  |  | ***(ii.2) REFLECT THE IMPORTANCE OF INDIGENOUS LANGUAGE REVITALIZATION BY SUPPORTING THE PRODUCTION AND BROADCASTING OF INDIGENOUS LANGUAGE PROGRAMMING, IN ACCORDANCE WITH THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES AND IN RESPONSE TO THE TRUTH AND RECONCILIATION COMMISSION OF CANADA'S CALLS TO ACTION," AND*** |
| 80 | (iii) include educational and community programs, | (iii) include educational and community programs, | (iii) include educational and community programs, |
| 81 | ~~(iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern, and~~ | (iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern and to directly participate in public dialogue on those matters including through the community element; and | (iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern and to directly participate in public dialogue on those matters including through the community element; and |
| 81.1 | *[1991 text:]* | *[C-11-3 replaced original text:]* | *[Senate deleted C-11-3's replacement text, leaving 1991 text intact:]* |
| 83 | ~~(v) include a significant contribution from the Canadian independent production sector;~~ | (v) include the greatest possible contribution from the Canadian production sector, whether it is independent or affiliated with or owned by a broadcasting undertaking; | (v) include a significant contribution from the Canadian independent production sector; |
| 84 | (j) educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system; | (j) educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system; | (j) educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system; |
| 85 | ~~(k) a range of broadcasting services in English and in French~~ **~~shall~~** ~~be extended to all Canadians as resources become available;~~ | (k) a range of broadcasting services in English and in French **shall** be extended to all Canadians; | (k) a range of broadcasting services in English and in French **shall** be extended to all Canadians; |
| 86 | ~~(l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains;~~ | (l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide broadcasting services incorporating a wide range of programming that informs, enlightens and entertains; | (l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide broadcasting services incorporating a wide range of programming that informs, enlightens and entertains; |
| 87 | (m) the programming provided by the Corporation should | (m) the programming provided by the Corporation should | (m) the programming provided by the Corporation should |
| 88 | (i) be predominantly and distinctively Canadian, | (i) be predominantly and distinctively Canadian, | (i) be predominantly and distinctively Canadian, |
| 89 | (ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions, | (ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions, | (ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions, |
| 90 | (iii) actively contribute to the flow and exchange of cultural expression, | (iii) actively contribute to the flow and exchange of cultural expression, | (iii) actively contribute to the flow and exchange of cultural expression, |
| 91 | ~~(iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities,~~ | (iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the specific needs and interests of official language minority communities | (iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the specific needs and interests of official language minority communities |
| 92 | (v) strive to be of equivalent quality in English and in French, | (v) strive to be of equivalent quality in English and in French, | (v) strive to be of equivalent quality in English and in French, |
| 93 | (vi) contribute to shared national consciousness and identity, | (vi) contribute to shared national consciousness and identity, | (vi) contribute to shared national consciousness and identity, |
| 94 | (vii) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and | (vii) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and | (vii) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and |
| 95 | (viii) reflect the multicultural and multiracial nature of Canada; | (viii) reflect the multicultural and multiracial nature of Canada; | (viii) reflect the multicultural and multiracial nature of Canada; |
| 96 | (n) where any conflict arises between the objectives of the Corporation set out in paragraphs (l) and (m) and the interests of any other broadcasting undertaking of the Canadian broadcasting system, it **shall** be resolved in the public interest, and where the public interest would be equally served by resolving the conflict in favour of either, it **shall** be resolved in favour of the objectives set out in paragraphs (l) and (m); | (n) where any conflict arises between the objectives of the Corporation set out in paragraphs (l) and (m) and the interests of any other broadcasting undertaking of the Canadian broadcasting system, it **shall** be resolved in the public interest, and where the public interest would be equally served by resolving the conflict in favour of either, it **shall** be resolved in favour of the objectives set out in paragraphs (l) and (m); | (n) where any conflict arises between the objectives of the Corporation set out in paragraphs (l) and (m) and the interests of any other broadcasting undertaking of the Canadian broadcasting system, it **shall** be resolved in the public interest, and where the public interest would be equally served by resolving the conflict in favour of either, it **shall** be resolved in favour of the objectives set out in paragraphs (l) and (m); |
| 97 | ~~(o) programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose;~~ | (o) programming that reflects the Indigenous cultures of Canada and programming that is in Indigenous languages should be provided — including through broadcasting undertakings that are carried on by Indigenous persons — within community elements, which are positioned to serve smaller and remote communities,and other elements of the Canadian broadcasting system; | (o) programming that reflects the Indigenous cultures of Canada and programming that is in Indigenous languages should be provided — including through broadcasting undertakings that are carried on by Indigenous persons — within community elements, which are positioned to serve smaller and remote communities,and other elements of the Canadian broadcasting system ***IN ORDER TO SERVE INDIGENOUS PEOPLES WHERE THEY LIVE;*** *AND* |
| 98 | ~~(p) programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose;~~ | (p) programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system**, including through community broadcasting, as well as the opportunity for them to develop their own content and voices** | (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*** |
| 99 |  | (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 video services available to assist persons living with a visual impairment; | (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 video services available to assist persons living with a *visual impairment;* |
| 100 | ~~(q) without limiting any obligation of a broadcasting undertaking to provide the programming contemplated by paragraph (i), alternative television programming services in English and in French should be provided where necessary to ensure that the full range of programming contemplated by that paragraph is made available through the Canadian broadcasting system;~~ | (q) online undertakings that provide the programming services of other broadcasting undertakings should | (q) online undertakings that provide the programming services of other broadcasting undertakings should |
| 101 |  | (i) ensure the discoverability of Canadian programming services and original Canadian content, including original French language programs, in an equitable proportion, and | (i) ensure the discoverability of Canadian programming services and original Canadian content, including *original French language programs*, in an equitable proportion, and |
| 102 |  | (ii) when programming services are supplied to them by other broadcasting undertakings under contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services; | (ii) when programming services are supplied to them by other broadcasting undertakings under contractual arrangements, provide *reasonable* terms for the carriage, packaging and retailing of those programming services; |
| 103 | ~~(r) the programming provided by alternative television programming services should~~ | (r) online undertakings **shall** clearly promote and recommend Canadian programming, in both official languages as well as in Indigenous languages, and ensure that any means of control of the programming generates results allowing its discovery; and | (r) online undertakings **shall** clearly promote and recommend Canadian programming, in both official languages as well as in Indigenous languages, and ensure that any means of control of the programming generates results allowing its discovery; and |
| 104 |  |  | ***(r.1) ONLINE UNDERTAKINGS SHALL IMPLEMENT METHODS SUCH AS AGE-VERIFICATION METHODS TO PREVENT CHILDREN FROM ACCESSING PROGRAMS ON THE INTERNET THAT ARE DEVOTED TO DEPICTING, FOR A SEXUAL PURPOSE, EXPLICIT SEXUAL ACTIVITY;*** |
| 105 | ~~(s) private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them,~~ |  |  |
| 106 | ~~(i) contribute significantly to the creation and presentation of Canadian programming, and~~ |  |  |
| 107 | ~~(ii) be responsive to the evolving demands of the public; and~~ |  |  |
| 108 | *[1991 text refers to alternative programming services]* | *[C-11-3 replaces alternative programming services with programming provided by community element, hence a complete change]* |  |
| 109 | ~~(r) the programming provided by alternative television programming services should~~ | (s) the programming provided by the community element should | (s) the programming provided by the community element should |
| 110 | ~~(i) be innovative and be complementary to the programming provided for mass audiences,~~ | (i) be innovative and complementary to the programming provided for mass audiences, | (i) be innovative and complementary to the programming provided for mass audiences, |
| 111 | ~~(ii) cater to tastes and interests not adequately provided for by the programming provided for mass audiences, and include programming devoted to culture and the arts,~~ | (ii) cater to tastes and interests not adequately provided for by the programming provided for mass audiences and include programs devoted to culture, politics, history, health and public safety, local news and current events, local economy and the arts | (ii) cater to tastes and interests not adequately provided for by the programming provided for mass audiences and include programs devoted to culture, politics, history, health and public safety, local news and current events, local economy and the arts |
| 112 | ~~(iii) reflect Canada’s regions and multicultural nature,~~ | (iii) reflect Canada’s communities, regions, Indigenous and multicultural nature, including through third-language programming, | (iii) reflect Canada’s communities, regions, Indigenous and multicultural nature, including through third-language programming, |
| 113 | ~~(iv) as far as possible, be acquired rather than produced by those services, and~~ | (iv) support new and emerging Canadian creative talent, as a cost-effective venue for learning new skills, taking risks and exchanging ideas, | (iv) support new and emerging Canadian creative talent, as a cost-effective venue for learning new skills, taking risks and exchanging ideas, |
| 114 | ~~(v) be made available throughout Canada by the most cost-efficient means;~~ | (v) through community participation, strengthen the democratic process and support countering disinformation, and | (v) through *community participation*, *strengthen* the democratic process and support ***LOCAL JOURNALISM, AND*** *~~countering~~* ~~disinformation, and~~ |
| 115 |  | (vi) be available throughout Canada so that all Canadians can engage in dialogue on matters of public concern; and | (vi) *be available* throughout Canada so that all Canadians can engage in dialogue on matters of public concern; and |
| 116 | (t) distribution undertakings | (t) distribution undertakings | (t) distribution undertakings |
| 117 | (i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations, | (i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations, | (i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations, |
| 118 | (ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost, | (ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost, | (ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost, |
| 119 | (iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and | (iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and | (iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and |
| 120 | (iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities. | (iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities. | (iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities. |
| 121 | Marginal note: Further declaration |  |  |
| 122 | (2) It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in subsection (1) can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority. | (2) It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in subsection (1) can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority. | (2) It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in subsection (1) can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority. |
| 123 | **Application** |  |  |
| 124 | **Marginal note: Binding on Her Majesty** |  |  |
| 125 | 4 (1) This Act is binding on Her Majesty in right of Canada or a province. | 4 (1) This Act is binding on Her Majesty in right of Canada or a province. | 4 (1) This Act is binding on Her Majesty in right of Canada or a province. |
| 126 | Marginal note: Application generally | Marginal note: Application generally | Marginal note: Application generally |
| 127 | (2) This Act applies in respect of broadcasting undertakings carried on in whole or in part within Canada or on board | (2) This Act applies in respect of broadcasting undertakings carried on in whole or in part within Canada or on board | (2) This Act applies in respect of broadcasting undertakings carried on in whole or in part within Canada or on board |
| 128 | (a) any ship, vessel or aircraft that is | (a) any ship, vessel or aircraft that is | (a) any ship, vessel or aircraft that is |
| 129 | (i) registered or licensed under an Act of Parliament, or | (i) registered or licensed under an Act of Parliament, or | (i) registered or licensed under an Act of Parliament, or |
| 130 | (ii) owned by, or under the direction or control of, Her Majesty in right of Canada or a province; | (ii) owned by, or under the direction or control of, Her Majesty in right of Canada or a province; | (ii) owned by, or under the direction or control of, Her Majesty in right of Canada or a province; |
| 131 | (b) any spacecraft that is under the direction or control of | (b) any spacecraft that is under the direction or control of | (b) any spacecraft that is under the direction or control of |
| 132 | (i) Her Majesty in right of Canada or a province, | (i) Her Majesty in right of Canada or a province, | (i) Her Majesty in right of Canada or a province, |
| 133 | (ii) a citizen or resident of Canada, or | (ii) a citizen or resident of Canada, or | (ii) a citizen or resident of Canada, or |
| 134 | (iii) a corporation incorporated or resident in Canada; or | (iii) a corporation incorporated or resident in Canada; or | (iii) a corporation incorporated or resident in Canada; or |
| 135 | (c) any platform, rig, structure or formation that is affixed or attached to land situated in the continental shelf of Canada. | (c) any platform, rig, structure or formation that is affixed or attached to land situated in the continental shelf of Canada. | (c) any platform, rig, structure or formation that is affixed or attached to land situated in the continental shelf of Canada. |
| 136 | Marginal note: For greater certainty |  |  |
| 137 | (3) For greater certainty, this Act applies in respect of broadcasting undertakings whether or not they are carried on for profit or as part of, or in connection with, any other undertaking or activity. | (3) For greater certainty, this Act applies in respect of broadcasting undertakings whether or not they are carried on for profit or as part of, or in connection with, any other undertaking or activity. | (3) For greater certainty, this Act applies in respect of broadcasting undertakings whether or not they are carried on for profit or as part of, or in connection with, any other undertaking or activity. |
| 138 | Marginal note: Idem |  |  |
| 139 | (4) For greater certainty, this Act does not apply to any telecommunications common carrier, as defined in the Telecommunications Act, when acting solely in that capacity. | (4) For greater certainty, this Act does not apply to any telecommunications common carrier, as defined in the Telecommunications Act, when acting solely in that capacity. | (4) For greater certainty, this Act does not apply to any telecommunications common carrier, as defined in the Telecommunications Act, when acting solely in that capacity. |
| 140 |  | **Non-application – programs on social media services** |  |
| 141 |  | 4.1 (1) This Act does not apply in respect of a program that is uploaded to an online undertaking that provides a social media service by a user of the service for transmission over the Internet and reception by other users of the service. | 4.1 (1) This Act does not apply in respect of a program that is uploaded to an online undertaking that provides a social media service by a user of the service for transmission over the Internet and reception by other users of the service. |
| 142 |  | **Application – certain programs** |  |
| 143 |  | 4.1(2) Despite subsection (1), this Act applies in respect of a program that is uploaded as described in that subsection if the program | 4.1(2) Despite subsection (1), this Act applies in respect of a program that is uploaded as described in that subsection if the program |
| 144 |  | (a) is uploaded to the social media service by the provider of the service or the provider’s affiliate, or by the agent or mandatary of either of them; or | (a) is uploaded to the social media service by the provider of the service or the provider’s affiliate, or by the agent or mandatary of either of them; or |
| 145 |  | (b) is prescribed by regulations made under section 4.2. | (b) is prescribed by regulations made under section 4.2. |
| 146 |  | **Non-application – social media service** |  |
| 147 |  | 4.1(3) This Act does not apply in respect of online undertakings whose broadcasting consists only of programs in respect of which this Act does not apply under this section. | 4.1(3) This Act does not apply in respect of online undertakings whose broadcasting consists only of programs in respect of which this Act does not apply under this section. |
| 148 |  | **For greater certainty** |  |
| 149 |  | 4.1(4) For greater certainty, this section does not exclude the application of this Act in respect of a program that, except for the fact that it is not uploaded as described in subsection (1), is the same as a program in respect of which this Act does not apply under this section. | 4.1(4) For greater certainty, this section does not exclude the application of this Act in respect of a program that, except for the fact that it is not uploaded as described in subsection (1), is the same as a program in respect of which this Act does not apply under this section. |
| 150 |  | **Regulations – programs to which this Act applies** |  |
| 151 |  | 4.2 (1) For the purposes of paragraph 4.1(2)(b), the Commission may make regulations prescribing programs in respect of which this Act applies**,** in a manner that is consistent with freedom of expression. | 4.2 (1) For the purposes of paragraph 4.1(2)(b), the Commission may make regulations prescribing programs in respect of which this Act applies***,*** in a manner that is consistent with freedom of expression. |
| 152 |  | **Matters** |  |
| 153 |  | (2) In making regulations under subsection (1), the Commission **shall** consider the following matters: | (2) In making regulations under subsection (1), the Commission **shall** consider the following matters: |
| 154 |  |  | ***(A) THE EXTENT TO WHICH A PROGRAM CONTAINS A SOUND RECORDING THAT HAS BEEN ASSIGNED A UNIQUE IDENTIFIER UNDER AN INTERNATIONAL STANDARDS SYSTEM;*** |
| 155 |  | (a) the extent to which a program, uploaded to an online undertaking that provides a social media service, directly or indirectly generates revenues; | ***(B) THE FACT THAT THE PROGRAM HAS BEEN UPLOADED TO AN ONLINE UNDERTAKING THAT PROVIDES A SOCIAL MEDIA SERVICE BY THE OWNER OR THE EXCLUSIVE LICENSEE OF THE COPYRIGHT IN THE SOUND RECORDING, OR AN AGENT OF THE OWNER; AND*** |
| 156 |  | (b) the fact that such a program has been broadcast, in whole or in part, by a broadcasting undertaking that | ***(C) THE FACT THAT THE PROGRAM OR A SIGNIFICANT PART OF IT HAS BEEN BROADCAST BY A BROADCASTING UNDERTAKING THAT*** |
| 157 |  | (i) is required to be carried on under a licence, or | ***(I) IS REQUIRED TO BE CARRIED ON UNDER A LICENCE, OR*** |
| 158 |  | (ii) is required to be registered with the Commission but does not provide a social media service; and | ***(II) IS REQUIRED TO BE REGISTERED WITH THE COMMISSION BUT DOES NOT PROVIDE A SOCIAL MEDIA SERVICE.*** |
| 159 |  | c) the fact that such a program has been assigned a unique identifier under an international standards system. |  |
| 162 |  | **Exclusion** |  |
| 163 |  | (3) The regulations **shall** not prescribe a program | (3) The regulations **shall** not prescribe a program |
| 164 |  | (a) in respect of which neither the user of a social media service who uploads the program nor the owner or licensee of copyright in the program receives revenues; or | (a) in respect of which neither the user of a social media service who uploads the program nor the owner or licensee of copyright in the program receives revenues; or |
| 165 |  | (b) that consists only of visual images. | (b) that consists only of visual images. |
| 166 | **PART II *[Objects, powers, hearings, rules]*** |  |  |
| 167 | **Objects and Powers of the Commission in Relation to Broadcasting** |  |  |
| 168 | **Objects** |  |  |
| 169 | **Marginal note: Objects** |  |  |
| 170 | 5 (1) Subject to this Act and the Radiocommunication Act and to any directions to the Commission issued by the Governor in Council under this Act, the Commission **shall** regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, **shall** have regard to the regulatory policy set out in subsection (2). | 5 (1) Subject to this Act and the Radiocommunication Act and to any directions to the Commission issued by the Governor in Council under this Act, the Commission **shall** regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, **shall** have regard to the regulatory policy set out in subsection (2). | 5 (1) Subject to this Act and the Radiocommunication Act and to any directions to the Commission issued by the Governor in Council under this Act, the Commission **shall** regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy set out in subsection 3(1) and, in so doing, **shall** have regard to the regulatory policy set out in subsection (2). |
| 172 | Marginal note: Regulatory policy |  |  |
| 173 | (2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that | (2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that | (2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that |
| 174 | ~~(a) is readily adaptable to the different characteristics of English and French language broadcasting and to the different conditions under which broadcasting undertakings that provide English or French language programming operate;~~ | (a) takes into account the different characteristics of English, French and Indigenous language broadcasting and the different conditions under which broadcasting undertakings that provide English, French or Indigenous language programming operate — including the minority context of French and Indigenous languages in North America — and the specific needs and interests of official language minority communities in Canada and; | (a) takes into account the different characteristics of English, French and Indigenous language broadcasting and the different conditions under which broadcasting undertakings that provide English, French or Indigenous language programming operate — including the minority context of French and Indigenous languages in North America — and the specific needs and interests of official language minority communities in Canada and; |
| 175 |  | (a.1) takes into account the nature and diversity of the services provided by broadcasting undertakings, as well as their size, their impact on the Canadian creation and production industry, particularly with respect to employment in Canada and Canadian programming, their contribution to the implementation of the broadcasting policy set out in subsection 3(1) and any other characteristic that may be relevant in the circumstances; | (a.1) takes into account the nature and diversity of the services provided by broadcasting undertakings, as well as their size, their impact on the Canadian creation and production industry, particularly with respect to employment in Canada and Canadian programming, their contribution to the implementation of the broadcasting policy set out in subsection 3(1) and any other characteristic that may be relevant in the circumstances; |
| 176 |  | (a.2) ensures that any broadcasting undertaking that cannot make maximum or predominant use of Canadian creative and other human resources in the creation, production and presentation of programming contributes to those Canadian resources in an equitable manner; | (a.2) ensures that any broadcasting undertaking that cannot make maximum or predominant use of Canadian creative and other human resources in the creation, production and presentation of programming contributes to those Canadian resources in an equitable manner; |
| 177 | (b) takes into account regional needs and concerns; | (b) takes into account regional needs and concerns; | (b) takes into account regional needs and concerns; |
| 178 | ~~(c) is readily adaptable to scientific and technological change;~~ | (c) is readily adaptable to scientific and technological change; | (c) ***PROMOTES INNOVATION AND*** is readily adaptable to scientific and technological change; |
| 179 | (d) facilitates the provision of broadcasting to Canadians; | (d) facilitates the provision of broadcasting to Canadians; | (d) facilitates the provision of broadcasting to Canadians; |
| 180 | ~~(e) facilitates the provision of Canadian programs to Canadians;~~ | (e) facilitates the provision to Canadians of Canadian programs created and produced in both official languages, including those created and produced by official language minority communitiesin Canada, as well as in Indigenous languages; | (e) facilitates the provision to Canadians of Canadian programs created and produced in both official languages, including those created and produced by official language minority communitiesin Canada, as well as in Indigenous languages; |
| 181 |  | (e.1) facilitates the provision of programs that are accessible without barriers to persons with disabilities; | (e.1) facilitates the provision of programs that are accessible without barriers to persons with disabilities; |
| 182 |  | (e.2) facilitates the provision to Canadians of programs created and produced by members of Black or other racialized communities; | (e.2) facilitates the provision to Canadians of programs created and produced by members of Black or other racialized communities; |
| 183 | (f) does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians**~~; and~~** | (f) does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians; | (f) does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians |
| 184 | (g) is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings. | (g) is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings, and | (g) is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings, |
| 185 |  |  | ***(g.1) PROTECTS THE PRIVACY OF INDIVIDUALS WHO ARE MEMBERS OF THE AUDIENCE FOR PROGRAMS BROADCAST BY BROADCASTING UNDERTAKINGS; AND*** |
| 186 |  | (h) takes into account the variety of broadcasting undertakings to which this Act applies and avoids imposing obligations on any class of broadcasting undertakings if that imposition will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1). | (h) takes into account the variety of broadcasting undertakings to which this Act applies and avoids imposing obligations on any class of broadcasting undertakings if that imposition will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1). |
| 187 | **Marginal note: Conflict** |  |  |
| 188 | (3) The Commission **shall** give primary consideration to the objectives of the broadcasting policy set out in subsection 3(1) if, in any particular matter before the Commission, a conflict arises between those objectives and the objectives of the regulatory policy set out in subsection (2). | (3) The Commission **shall** give primary consideration to the objectives of the broadcasting policy set out in subsection 3(1) if, in any particular matter before the Commission, a conflict arises between those objectives and the objectives of the regulatory policy set out in subsection (2). | (3) The Commission **shall** give primary consideration to the objectives of the broadcasting policy set out in subsection 3(1) if, in any particular matter before the Commission, a conflict arises between those objectives and the objectives of the regulatory policy set out in subsection (2). |
| 189 | **Marginal note: Employment equity** |  |  |
| 190 | (4) Where a broadcasting undertaking is subject to the Employment Equity Act, the powers granted to the Commission under this Act do not extend to the regulation or supervision of matters concerning employment equity in relation to that broadcasting undertaking. | (4) Where a broadcasting undertaking is subject to the Employment Equity Act, the powers granted to the Commission under this Act do not extend to the regulation or supervision of matters concerning employment equity in relation to that broadcasting undertaking. | (4) Where a broadcasting undertaking is subject to the Employment Equity Act, the powers granted to the Commission under this Act do not extend to the regulation or supervision of matters concerning employment equity in relation to that broadcasting undertaking. |
| 191 |  | **Official language minority communities** |  |
| 192 |  | 5.1 In regulating and supervising the Canadian broadcasting system and exercising its powers under this Act, the Commission **shall** enhance the vitality of official language minority communities in Canada and support and assist their development. | 5.1 In regulating and supervising the Canadian broadcasting system and exercising its powers under this Act, the Commission **shall** enhance the vitality of official language minority communities in Canada and support and assist their development. |
| 193 |  | **Consultation** |  |
| 194 |  | 5.2 (1) The Commission **shall** consult with official language minority communities in Canada whenmaking decisions that could adversely affect them. | 5.2 (1) The Commission **shall** consult with official language minority communities in Canada whenmaking decisions that could adversely affect them. |
| 195 |  | **Objectives of consultations** |  |
| 196 |  | (2) When engaging in consultations required by subsection (1), the Commission **shall** | (2) When engaging in consultations required by subsection (1), the Commission **shall** |
| 197 |  | (a) gather information to test its policies, decisions and initiatives; | (a) gather information to test its policies, decisions and initiatives; |
| 198 |  | (b) propose policies, decisions and initiatives that have not been finalized; | (b) propose policies, decisions and initiatives that have not been finalized; |
| 199 |  | (c) seek the communities’ opinions with regard to the policies, decisions or initiatives that are the subject of the consultations; | (c) seek the communities’ opinions with regard to the policies, decisions or initiatives that are the subject of the consultations; |
| 200 |  | (d) provide them with all relevant information on which these policies, decisions or initiatives are based; | (d) provide them with all relevant information on which these policies, decisions or initiatives are based; |
| 201 |  | (e) openly and meaningfully consider those opinions; | (e) openly and meaningfully consider those opinions; |
| 202 |  | (f) be prepared to alter those policies, decisions or initiatives; and | (f) be prepared to alter those policies, decisions or initiatives; and |
| 203 |  | (g) provide the communities with feedback, both during the consultation process and after a decision has been made. | (g) provide the communities with feedback, both during the consultation process and after a decision has been made. |
| 204 | ***PART II [Objects, powers, hearings, rules]*** |  |  |
| 205 | **Marginal note: Policy guidelines and statements** |  |  |
| 206 | 6 The Commission may from time to time issue guidelines and statements with respect to any matter within its jurisdiction under this Act, but no such guidelines or statements issued by the Commission are binding on the Commission. | 6 The Commission may from time to time issue guidelines and statements with respect to any matter within its jurisdiction under this Act, but no such guidelines or statements issued by the Commission are binding on the Commission. | 6 The Commission may from time to time issue guidelines and statements with respect to any matter within its jurisdiction under this Act, but no such guidelines or statements issued by the Commission are binding on the Commission. |
| 208 | **Marginal note: Policy directions** |  |  |
| 209 | 7 (1) Subject to subsection (2) and section 8, the Governor in Council may, by order, issue to the Commission directions of general application on broad policy matters with respect to | 7 (1) Subject to subsection (2) and section 8, the Governor in Council may, by order, issue to the Commission directions of general application on broad policy matters with respect to | 7 (1) Subject to subsection (2) and section 8, the Governor in Council may, by order, issue to the Commission directions of general application on broad policy matters with respect to |
| 210 | (a) any of the objectives of the broadcasting policy set out in subsection 3(1); or | (a) any of the objectives of the broadcasting policy set out in subsection 3(1); or | (a) any of the objectives of the broadcasting policy set out in subsection 3(1); or |
| 211 | (b) any of the objectives of the regulatory policy set out in subsection 5(2). | (b) any of the objectives of the regulatory policy set out in subsection 5(2). | (b) any of the objectives of the regulatory policy set out in subsection 5(2). |
| 212 | **Marginal note: Exception** |  |  |
| 213 | (2) No order may be made under subsection (1) in respect of the issuance of a licence to a particular person or in respect of the amendment, renewal, suspension or revocation of a particular licence. | (2) No order may be made under subsection (1) in respect of the issuance of a licence to a particular person or in respect of the amendment, renewal, suspension or revocation of a particular licence. | (2) No order may be made under subsection (1) in respect of the issuance of a licence to a particular person or in respect of the amendment, renewal, suspension or revocation of a particular licence. |
| 214 | **Marginal note: Directions binding** |  |  |
| 215 | (3) An order made under subsection (1) is binding on the Commission beginning on the day on which the order comes into force and, subject to subsection (4), **shall**, if it so provides, apply with respect to any matter pending before the Commission on that day. | (3) An order made under subsection (1) is binding on the Commission beginning on the day on which the order comes into force and, subject to subsection (4), **shall**, if it so provides, apply with respect to any matter pending before the Commission on that day. | (3) An order made under subsection (1) is binding on the Commission beginning on the day on which the order comes into force and, subject to subsection (4), **shall**, if it so provides, apply with respect to any matter pending before the Commission on that day. |
| 216 | **Marginal note: Exception** |  |  |
| 217 | (4) No order made under subsection (1) may apply with respect to a licensing matter pending before the Commission where the period for the filing of interventions in the matter has expired unless that period expired more than one year before the coming into force of the order. | (4) No order made under subsection (1) may apply with respect to a licensing matter pending before the Commission where the period for the filing of interventions in the matter has expired unless that period expired more than one year before the coming into force of the order. | (4) No order made under subsection (1) may apply with respect to a licensing matter pending before the Commission where the period for the filing of interventions in the matter has expired unless that period expired more than one year before the coming into force of the order. |
| 218 | **Marginal note: Publication and tabling** |  |  |
| 219 | (5) A copy of each order made under subsection (1) **shall** be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the making of the order. | (5) A copy of each order made under subsection (1) **shall** be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the making of the order. | (5) A copy of each order made under subsection (1) **shall** be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the making of the order. |
| 220 | **Marginal note: Consultation** | Marginal note: Consultation | Marginal note: Consultation |
| 221 | (6) The Minister **shall** consult with the Commission before the Governor in Council makes an order under subsection (1). | (6) The Minister **shall** consult with the Commission before the Governor in Council makes an order under subsection (1). | (6) The Minister **shall** consult with the Commission before the Governor in Council makes an order under subsection (1). |
| 222 |  | **For greater certainty** | **For greater certainty** |
| 223 |  | (7) For greater certainty, an order may be made under subsection (1) with respect to orders made under subsection 9.1(1) or 11.1(2) or regulations made under subsection 10(1) or 11.1(1). | (7) For greater certainty, an order may be made under subsection (1) with respect to orders made under subsection 9.1(1) or 11.1(2) or regulations made under subsection 10(1) or 11.1(1). |
| 225 | 8 (1) Where the Governor in Council proposes to make an order under section 7, the Minister **shall** cause the proposed order to be | 8 (1) Where the Governor in Council proposes to make an order under section 7, the Minister **shall** cause the proposed order to be | 8 (1) Where the Governor in Council proposes to make an order under section 7, the Minister **shall** cause the proposed order to be |
| 226 | (a) published by notice in the Canada Gazette, which notice **shall** invite interested persons to make representations to the Minister with respect to the proposed order; and | (a) published by notice in the Canada Gazette, which notice **shall** invite interested persons to make representations to the Minister with respect to the proposed order; and | (a) published by notice in the Canada Gazette, which notice **shall** invite interested persons to make representations to the Minister with respect to the proposed order; and |
| 227 | (b) laid before each House of Parliament. | (b) laid before each House of Parliament. | (b) laid before each House of Parliament. |
| 228 | **Marginal note: Referral to committee** | **Representations** |  |
| 229 | ~~(2) Where a proposed order is laid before a House of Parliament pursuant to subsection (1), it~~ **~~shall~~** ~~stand referred to such committee thereof as the House considers appropriate to deal with the subject-matter of the order.~~ | (2) The Minister **shall** | (2) The Minister **shall** |
| 230 | (a) specify in the notice the period — of at least 30 days from the day on which the notice was published under paragraph (1)(a) — during which interested persons may make representations; and | (a) specify in the notice the period — of at least 30 days from the day on which the notice was published under paragraph (1)(a) — during which interested persons may make representations; and |
| 231 | (b) publish the representations that are made during that period | (b) publish the representations that are made during that period |
| 232 | **Marginal note: Implementation of proposal** |  |  |
| 233 | ~~(3) The Governor in Council may, after the expiration of forty sitting days of Parliament after a proposed order is laid before both Houses of Parliament in accordance with subsection (1), implement the proposal by making an order under section 7, either in the form proposed or revised in such manner as the Governor in Council deems advisable.~~ | (3) The Governor in Council may, after the period referred to in paragraph (2)(a) has ended and the proposed order has been laid before each House of Parliament, implement the proposal by making an order under section 7, either in the form proposed or revised in the manner that the Governor in Council considers appropriate. | (3) The Governor in Council may, after the period referred to in paragraph (2)(a) has ended and the proposed order has been laid before each House of Parliament, implement the proposal by making an order under section 7, either in the form proposed or revised in the manner that the Governor in Council considers appropriate. |
| 234 | **Marginal note: Consultation** |  |  |
| 235 | (4) The Minister **shall** consult with the Commission before a proposed order is published or is laid before a House of Parliament under subsection (1). | (4) The Minister **shall** consult with the Commission before a proposed order is published or is laid before a House of Parliament under subsection (1). | (4) The Minister **shall** consult with the Commission before a proposed order is published or is laid before a House of Parliament under subsection (1). |
| 236 | Marginal note: Definition of sitting day of Parliament |  |  |
| 237 | ~~(5) In this section, sitting day of Parliament means a day on which either House of Parliament sits.~~ |  |  |
| 239 | **General Powers** |  |  |
| 240 | **Marginal note: Licences, etc.** |  |  |
| 241 | 9 (1) Subject to this Part, the Commission may, in furtherance of its objects, | 9 (1) Subject to this Part, the Commission may, in furtherance of its objects, | 9 (1) Subject to this Part, the Commission may, in furtherance of its objects, |
| 242 | ~~(a) establish classes of licences;~~ | (a) establish classes of licences other than for online undertakings; | (a) establish classes of licences other than for online undertakings; |
| 243 | ~~(b) issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee~~ | (b) issue a licence, the term of which may be indefinite or fixed by the Commission; | (b) issue a licence, the term of which may be indefinite or fixed by the Commission; |
| 244 | ~~(i) as the Commission deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1), and~~ |  |  |
| 245 | ~~(ii) in the case of licences issued to the Corporation, as the Commission deems consistent with the provision, through the Corporation, of the programming contemplated by paragraphs 3(1)(l) and (m);~~ |  |  |
| 246 | ~~(c) amend any condition of a licence on application of the licensee or, where five years have expired since the issuance or renewal of the licence, on the Commission’s own motion;~~ | (c) amend a licence as to its term, on the application of the licensee; | (c) amend a licence as to its term, on the application of the licensee; |
| 247 | ~~(d) issue renewals of licences for such terms not exceeding seven years and subject to such conditions as comply with paragraph (b);~~ | (d) amend a licence other than as to its term, on the application of the licensee or on the Commission’s own motion; | (d) amend a licence other than as to its term, on the application of the licensee or on the Commission’s own motion; |
| 248 | ~~(e) suspend or revoke any licence;~~ | (e) renew a licence, the term of which may be indefinite or fixed by the Commission; and | (e) renew a licence, the term of which may be indefinite or fixed by the Commission; and |
| 249 | ~~(f) require any licensee to obtain the approval of the Commission before entering into any contract with a telecommunications common carrier for the distribution of programming directly to the public using the facilities of that common carrier;~~ | (f) suspend or revoke a licence. | (f) suspend or revoke a licence. |
| 250 | ~~(g) require any licensee who is authorized to carry on a distribution undertaking to give priority to the carriage of broadcasting; and~~ |  |  |
| 251 | ~~(h) require any licensee who is authorized to carry on a distribution undertaking to carry, on such terms and conditions as the Commission deems appropriate, programming services specified by the Commission.~~ |  |  |
| 253 | **Marginal note: Restrictions re conditions** |  |  |
| 254 | ~~(2) Notwithstanding subsections (1) and 28(3), no licence of a distribution undertaking may be made subject to a condition that requires the licensee to substitute replacement material for commercial messages carried in a broadcasting signal received by that licensee.~~ |  |  |
| 255 | ~~Marginal note: Exception~~ |  |  |
| 256 | ~~(3) Subsection (2) does not apply in respect of a condition of a licence renewed after October 4, 1987 where before that date the licensee was complying with such a condition.~~ |  |  |
| 257 | **~~Marginal note: Exemptions~~** |  |  |
| 258 | ~~(4) The Commission~~ **~~shall~~**~~, by order, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).~~ | (4) The Commission **shall**, by order, on the terms and conditions that it considers appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part, of an order made under section 9.1 or of a regulation made under this Partif the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1). | (4) The Commission **shall**, by order, on the terms and conditions that it considers appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part, of an order made under section 9.1 or of a regulation made under this Part if the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1). |
| 259 |  | **Repeal or amendment** |  |
| 260 |  | (5) The Commission **shall** repeal or amend an exemption order made under subsection (4) if the Commission considers that doing so will contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1). | (5) The Commission **shall** repeal or amend an exemption order made under subsection (4) if the Commission considers that doing so will contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1). |
| 261 |  | **Conditions** |  |
| 262 |  | 9.1 (1) The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting | 9.1 (1) The Commission may, in furtherance of its objects, make orders imposing conditions on the carrying on of broadcasting undertakings that the Commission considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1), including conditions respecting |
| 263 |  | (a) the proportion of programs to be broadcast that **shall** be Canadian programs and the proportion of time that **shall** be devoted to the broadcasting of Canadian programs; | (a) the proportion of programs to be broadcast that **shall** be Canadian programs and the proportion of time that **shall** be devoted to the broadcasting of Canadian programs; |
| 264 |  | (b) the proportion of Canadian programs to be broadcast that **shall** be original French language programs, including first-run programs; | (b) the proportion of Canadian programs to be broadcast that **shall** be original French language programs, including first-run programs; |
| 265 |  | (c) the proportion of programs to be broadcast that **shall** be original French language programs; | (c) the proportion of programs to be broadcast that **shall** be original French language programs; |
| 266 |  | (d) the proportion of programs to be broadcast that **shall** be devoted to specific genres, in order to ensure the diversity of programming; | (d) the proportion of programs to be broadcast that **shall** be devoted to specific genres, in order to ensure the diversity of programming; |
| 267 |  | (e) the presentation of programs and programming services for selection by the public, including the **showcasing** and the **discoverability** of Canadian programs and programming services, such as French language original programs; | (e) the presentation of programs and programming services for selection by the public, including the **showcasing** and the **discoverability** of Canadian programs and programming services, such as French language original programs; |
| 268 |  | (f) a requirement for a person carrying on a broadcasting undertaking, other than an online undertaking, to obtain the approval of the Commission before entering into any contract with a telecommunications common carrier, as defined in the Telecommunications Act, for the distribution of programming directly to the public; | (f) a requirement for a person carrying on a broadcasting undertaking, other than an online undertaking, to obtain the approval of the Commission before entering into any contract with a telecommunications common carrier, as defined in the Telecommunications Act, for the distribution of programming directly to the public; |
| 269 |  | (g) a requirement for a person carrying on a distribution undertaking to give priority to the carriage of broadcasting; | (g) a requirement for a person carrying on a distribution undertaking to give priority to the carriage of broadcasting; |
| 270 |  | (h) a requirement for a person carrying on a distribution undertaking to carry, on the terms and conditions that the Commission considers appropriate, programming services, specified by the Commission, that are provided by a broadcasting undertaking; | (h) a requirement for a person carrying on a distribution undertaking to carry, on the terms and conditions that the Commission considers appropriate, programming services, specified by the Commission, that are provided by a broadcasting undertaking; |
| 271 |  | (i) a requirement, without terms or conditions, for a person carrying on an online undertaking that provides the programming services of other broadcasting undertakings in a manner that is similar to a distribution undertaking to carry programming services, specified by the Commission, that are provided by a broadcasting undertaking; | (i) a requirement, without terms or conditions, for a person carrying on an online undertaking that provides the programming services of other broadcasting undertakings in a manner that is similar to a distribution undertaking to carry programming services, specified by the Commission, that are provided by a broadcasting undertaking; |
| 272 |  | (j) terms and conditions of service in contracts between distribution undertakings and their subscribers; | (j) terms and conditions of service in contracts between distribution undertakings and their subscribers; |
| 273 |  | (k) access by persons with disabilities to programming, including the identification, prevention and removal of barriers to such access; | (k) access by persons with disabilities to programming, including the identification, prevention and removal of barriers to such access; |
| 274 |  | (l) the carriage of emergency messages; | (l) the carriage of emergency messages; |
| 275 |  | (m) any change in the ownership or control of a broadcasting undertaking that is required to be carried on under a licence; | (m) any change in the ownership or control of a broadcasting undertaking that is required to be carried on under a licence; |
| 276 |  | (n) the provision to the Commission, by licensees or persons **exempt from the requirement to hold a licence under an order made under subsection 9(4),** of information related to | (n) the provision to the Commission, by licensees or persons **exempt from the requirement to hold a licence under an order made under subsection 9(4),** of information related to |
| 277 |  | (i) the ownership, **governance** and control of those licensees or exempt persons, and | (i) the ownership, **governance** and control of those licensees or exempt persons, and |
| 278 |  | (ii) the affiliation of those licensees or exempt persons with any affiliates carrying on broadcasting undertakings; | (ii) the affiliation of those licensees or exempt persons with any affiliates carrying on broadcasting undertakings; |
| 279 |  | (o) the provision to the Commission, by persons carrying on broadcasting undertakings, of any other information that the Commission considers necessary for the administration of this Act, including | (o) the provision to the Commission, by persons carrying on broadcasting undertakings, of any other information that the Commission considers necessary for the administration of this Act, including |
| 280 |  | (i) financial or commercial information, | (i) financial or commercial information, |
| 281 |  | (ii) information related to programming, | (ii) information related to programming, |
| 282 |  | (iii) information related to expenditures made under section 11.1, and | (iii) information related to expenditures made under section 11.1, and |
| 283 |  | (iv) information related to audience measurement, other than information that could identify any individual audience member; and | (iv) information related to audience measurement, other than information that could identify any individual audience member; and |
| 284 |  | (p) continued ownership and control by Canadians of Canadian broadcasting undertakings. | (p) continued ownership and control by Canadians of Canadian broadcasting undertakings. |
| 285 |  | **Application** |  |
| 286 |  | (2) An order made under this section may be made applicable to all persons carrying on broadcasting undertakings, to all persons carrying on broadcasting undertakings of any class established by the Commission in the order or to a particular person carrying on a broadcasting undertaking. | (2) An order made under this section may be made applicable to all persons carrying on broadcasting undertakings, to all persons carrying on broadcasting undertakings of any class established by the Commission in the order or to a particular person carrying on a broadcasting undertaking. |
| 287 |  | **Non-application** |  |
| 288 |  | (3) The Statutory Instruments Act does not apply to orders made under this section. | (3) The *Statutory Instruments Act* does not apply to orders made under this section. |
| 289 |  | **Publication and representations** |  |
| 290 |  | (4) A copy of each order that the Commission proposes to make under this section **shall** be published on the Commission’s website and a reasonable opportunity **shall** be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the proposed order. | (4) A copy of each order that the Commission proposes to make under this section **shall** be published on the Commission’s website and a reasonable opportunity **shall** be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the proposed order. |
| 291 |  | **Publication** |  |
| 292 |  | (5) The Commission **shall** publish each order that is made under this section on its website. | (5) The Commission **shall** publish each order that is made under this section on its website. |
| 293 |  | **Programming control** |  |
| 294 |  | (6) Orders made under any of paragraphs (1)(a) to (d) apply only in respect of programs over which a person who carries on a broadcasting undertaking has programming control. | (6) Orders made under any of paragraphs (1)(a) to (d) apply only in respect of programs over which a person who carries on a broadcasting undertaking has programming control. |
| 295 |  | **Canadian original French language programs** |  |
| 296 |  | (7) In making an order under paragraph (1)(c), the Commission **shall** ensure that Canadian original French language programs represent a significant proportion of the original French language programs to be broadcast. | (7) In making an order under paragraph (1)(c), the Commission **shall** ensure that Canadian original French language programs represent a significant proportion of the original French language programs to be broadcast. |
| 297 |  | **Restriction – computer algorithm or source code** |  |
| 298 |  | (8) The Commission **shall** not make an order under paragraph (1)(e) that would require the use of a specific computer algorithm or source code. | (8) The Commission **shall** not make an order under paragraph (1)(e) that would require the use of a specific computer algorithm or source code. |
| 299 |  | **Good faith negotiation** |  |
| 300 |  | (9) The person carrying on an online undertaking to whom an order made under paragraph (1)(i) applies and the person carrying on the broadcasting undertaking whose programming services are specified in the order **shall** negotiate the terms for the carriage of the programming services in good faith. | (9) The person carrying on an online undertaking to whom an order made under paragraph (1)(i) applies and the person carrying on the broadcasting undertaking whose programming services are specified in the order **shall** negotiate the terms for the carriage of the programming services in good faith. |
| 301 |  | **Facilitation** |  |
| 302 |  | (10) The Commission may facilitate those negotiations at the request of either party to the negotiations. | (10) The Commission may facilitate those negotiations at the request of either party to the negotiations. |
| 304 | **Marginal note: Regulations generally** |  |  |
| 305 | 10 (1) The Commission may, in furtherance of its objects, make regulations | 10 (1) The Commission may, in furtherance of its objects, make regulations | 10 (1) The Commission may, in furtherance of its objects, make regulations |
| 306 | ~~(a) respecting the proportion of time that~~ **~~shall~~** ~~be devoted to the broadcasting of Canadian programs;~~ | [Repealed] | [Repealed] |
| 307 | (b) prescribing what constitutes a Canadian program for the purposes of this Act; | (b) prescribing what constitutes a Canadian program for the purposes of this Act; | (b) prescribing what constitutes a Canadian program for the purposes of this Act; |
| 308 | ~~(c) respecting standards of programs and the allocation of broadcasting time for the purpose of giving effect to the broadcasting policy set out in subsection 3(1);~~ | (c) respecting standards for programs over which a person carrying on a broadcasting undertaking has programming control and the allocation of broadcasting time, for the purpose of giving effect to the broadcasting policy set out in subsection 3(1); | (c) respecting standards for programs over which a person carrying on a broadcasting undertaking has programming control and the allocation of broadcasting time, for the purpose of giving effect to the broadcasting policy set out in subsection 3(1); |
| 309 | (d) respecting the character of advertising and the amount of broadcasting time that may be devoted to advertising; | (d) respecting the character of advertising and the amount of broadcasting time that may be devoted to advertising; | (d) respecting the character of advertising and the amount of broadcasting time that may be devoted to advertising; |
| 310 | ~~(e) respecting the proportion of time that may be devoted to the broadcasting of programs, including advertisements or announcements, of a partisan political character and the assignment of that time on an equitable basis to political parties and candidates;~~ | (e) respecting, in relation to a broadcasting undertaking other than an online undertaking, the proportion of time that may be devoted to the broadcasting of programs, including advertisements or announcements, of a partisan political character and the assignment of that time on an equitable basis to political parties and candidates; | (e) respecting, in relation to a broadcasting undertaking other than an online undertaking, the proportion of time that may be devoted to the broadcasting of programs, including advertisements or announcements, of a partisan political character and the assignment of that time on an equitable basis to political parties and candidates; |
| 311 | (f) prescribing the conditions for the operation of programming undertakings as part of a network and for the broadcasting of network programs, and respecting the broadcasting times to be reserved for network programs by any such undertakings; | (f) prescribing the conditions for the operation of programming undertakings as part of a network and for the broadcasting of network programs, and respecting the broadcasting times to be reserved for network programs by any such undertakings; | (f) prescribing the conditions for the operation of programming undertakings as part of a network and for the broadcasting of network programs, and respecting the broadcasting times to be reserved for network programs by any such undertakings; |
| 312 | (g) respecting the carriage of any foreign or other programming services by distribution undertakings; | (g) respecting the carriage of any foreign or other programming services by distribution undertakings; | (g) respecting the carriage of any foreign or other programming services by distribution undertakings; |
| 313 | (h) for resolving, by way of mediation or otherwise, any disputes arising between programming undertakings and distribution undertakings concerning the carriage of programming originated by the programming undertakings; | (h) for resolving, by way of mediation or otherwise, any disputes arising between programming undertakings and distribution undertakings concerning the carriage of programming originated by the programming undertakings; | (h) for resolving, by way of mediation or otherwise, any disputes arising between programming undertakings and distribution undertakings concerning the carriage of programming originated by the programming undertakings; |
| 314 |  | (h.1) respecting unjust discrimination by a person carrying on a broadcasting undertaking and undue or unreasonable preference given, or undue or unreasonable disadvantage imposed, by such a person; | (h.1) respecting unjust discrimination by a person carrying on a broadcasting undertaking and undue or unreasonable preference given, or undue or unreasonable disadvantage imposed, by such a person; |
| 315 | ~~(i) requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify;~~ | (i) respecting the registration of broadcasting undertakings with the Commission; | (i) respecting the registration of broadcasting undertakings with the Commission; |
| 316 | ~~(j) respecting the audit or examination of the records and books of account of licensees by the Commission or persons acting on behalf of the Commission; and~~ | (j) respecting the audit or examination of records and books of account of persons carrying on broadcasting undertakings by the Commission or persons acting on behalf of the Commission; and | (j) respecting the audit or examination of records and books of account of persons carrying on broadcasting undertakings by the Commission or persons acting on behalf of the Commission; and |
| 317 | (k) respecting such other matters as it deems necessary for the furtherance of its objects. | (k) respecting such other matters as it deems necessary for the furtherance of its objects. | (k) respecting such other matters as it deems necessary for the furtherance of its objects. |
| 318 |  | **Regulations – Canadian programs** |  |
| 319 | ~~(2) A regulation made under this section may be made applicable to all persons holding licences or to all persons holding licences of one or more classes.~~ | 10(1.1) In making regulations under paragraph (1)(b), the Commission **shall** consider the following matters: | 10(1.1) In making regulations under paragraph (1)(b), the Commission **shall** consider the following matters: |
| 320 |  | (a) whether Canadian producers, including independent producers, have a right or interest in relation to a program, including copyright or any other right or interest, that allows them to control and benefit in a fair and equitable manner from the exploitation of the program; | (a) whether Canadian producers, including independent producers, have a right or interest in relation to a program, including copyright ***~~or any other right or interest~~,*** that allows them to control and benefit in a fair and equitable manner from the exploitation of the program; |
| 321 |  | (b) whether key creative positions in the production of a program are primarily held by Canadians; | (b) whether key creative positions in the production of a program are primarily held by Canadians; |
| 322 |  | (c) whether a program furthers Canadian artistic and cultural expression; | (c) whether a program furthers Canadian artistic and cultural expression; |
| 323 |  | (d) the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs, with producers associated with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of copyright in musical works or in sound recordings made in Canada; and | (d) the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs, with producers associated with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of copyright in musical works or in sound recordings ***~~MADE IN CANADA~~***; and |
| 324 |  | (e) any other matter that may be prescribed by regulation. | (e) any other matter that may be prescribed by regulation. |
| 326 |  |  | ***10(1.11) NO FACTOR SET OUT IN PARAGRAPHS (1.1)(A) TO (E) IS TO BE DETERMINATIVE OF ANY MATTER PROVIDED FOR BY A REGULATION MADE UNDER PARAGRAPH 1(B).*** |
| 327 |  | 10(1.2) The Governor in Council may make regulations prescribing matters that the Commission is required to consider under paragraph (1.1)(e). | 10(1.2) The Governor in Council may make regulations prescribing matters that the Commission is required to consider under paragraph (1.1)(e). |
| 328 |  | **Application** |  |
| 329 |  | (2)A regulation made under subsection (1) may be made applicable to all persons carrying on broadcasting undertakings or to all persons carrying on broadcasting undertakings of any class established by the Commission in the regulation. | (2) A regulation made under subsection (1) may be made applicable to all persons carrying on broadcasting undertakings or to all persons carrying on broadcasting undertakings of any class established by the Commission in the regulation. |
| 330 | **Marginal note: Publication of proposed regulation** | **Publication and representations** |  |
| 331 | ~~(3) A copy of each regulation that the Commission proposes to make under this section~~ **~~shall~~** ~~be published in the~~ *~~Canada Gazette~~* ~~and a reasonable opportunity~~ **~~shall~~** ~~be given to licensees and other interested persons to make representations to the Commission with respect thereto.~~ | (3) A copy of each regulation that the Commission proposes to make under subsection (1) **shall** be published in the Canada Gazette and a reasonable opportunity **shall** be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation. | (3) *A copy of each regulation that the Commission proposes to make* under subsection (1) **shall** be published in the Canada Gazette and a reasonable opportunity ***shall*** be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation. |
| 332 |  | **For greater certainty** |  |
| 333 |  | 10.1 For greater certainty, the Commission **shall** make orders under subsection 9.1(1) and regulations under subsection 10(1) in a manner that is consistent with the freedom of expression enjoyed by users of social media services that are provided by online undertakings. | 10.1 *For greater certainty*, the Commission **shall** make orders under subsection 9.1(1) and regulations under subsection 10(1) in a manner that is consistent with the freedom of expression enjoyed by users of social media services that are provided by online undertakings. |
| 334 | **Marginal note: Regulations respecting licence fees** |  |  |
| 335 | 11 (1) The Commission may make regulations | 11 (1) The Commission may make regulations | 11 (1) The Commission may make regulations |
| 336 | ~~(a) with the approval of the Treasury Board, establishing schedules of fees to be paid by licensees of any class;~~ | (a) with the approval of the Treasury Board, establishing schedules of fees to be paid by persons carrying on broadcasting undertakings of any class; | (a) with the approval of the Treasury Board, establishing schedules of fees to be paid by persons carrying on broadcasting undertakings of any class; |
| 337 | ~~(b) providing for the establishment of classes of licensees for the purposes of paragraph (a);~~ | (b) providing for the establishment of classes of broadcasting undertakings for the purposes of paragraph (a); | (b) providing for the establishment of classes of broadcasting undertakings for the purposes of paragraph (a); |
| 338 | ~~(c) providing for the payment of any fees payable by a licensee, including the time and manner of payment;~~ | (c) providing for the payment of any fees payable by a person carrying on a broadcasting undertaking, including the time and manner of payment; | (c) providing for the payment of any fees payable by a person carrying on a broadcasting undertaking, including the time and manner of payment; |
| 339 | ~~(d) respecting the interest payable by a licensee in respect of any overdue fee; and~~ | (d) respecting the interest payable by such a person in respect of any overdue fee; and | (d) respecting the interest payable by such a person in respect of any overdue fee; and |
| 340 | (e) respecting such other matters as it deems necessary for the purposes of this section. | (e) respecting such other matters as it deems necessary for the purposes of this section. | (e) respecting such other matters as it deems necessary for the purposes of this section. |
| 341 | **Marginal note: Criteria** | **Criteria** |  |
| 342 | ~~(2) Regulations made under paragraph (1)(a) may provide for fees to be calculated by reference to any criteria that the Commission deems appropriate, including by reference to~~ | (2) Regulations made under paragraph (1)(a) may provide for fees to be calculated by reference to any criteria that the Commission considers appropriate, including by reference to | (2) Regulations made under paragraph (1)(a) may provide for fees to be calculated by reference to any criteria that the Commission considers appropriate, including by reference to |
| 343 | ~~(a) the revenues of the licensees;~~ | (a) the revenues of the persons carrying on broadcasting undertakings | (a) the revenues of the persons carrying on broadcasting undertakings |
| 345 | ~~(b) the performance of the licensees in relation to objectives established by the Commission, including objectives for the broadcasting of Canadian programs; and~~ | (b) the performance of the persons carrying on broadcasting undertakings in relation to objectives established by the Commission, including objectives for the broadcasting of Canadian programs; and | (b) the performance of the persons carrying on broadcasting undertakings in relation to objectives established by the Commission, including objectives for the broadcasting of Canadian programs; and |
| 346 | ~~(c) the market served by the licensees.~~ | (c) the market served by the persons carrying on broadcasting undertakings. | (c) the market served by the persons carrying on broadcasting undertakings. |
| 348 | **Marginal note: Exceptions** |  |  |
| 349 | ~~(3) No regulations made under subsection (1)~~ **~~shall~~** ~~apply to the Corporation or to licensees carrying on programming undertakings on behalf of Her Majesty in right of a province.~~ | (3) No regulations made under subsection (1) **shall** apply to the Corporation or to persons carrying on programming undertakings on behalf of Her Majesty in right of a province. | (3) No regulations made under subsection (1) **shall** apply to the Corporation or to persons carrying on programming undertakings on behalf of Her Majesty in right of a province. |
| 350 |  | **Restriction – non-licensees** |  |
| 351 |  | (3.1) The only fees that may be established with respect to a broadcasting undertaking **shall** be fees that relate to the recovery of the costs of the Commission’s activities under this Act. | (3.1) The only fees that may be established with respect to a broadcasting undertaking **shall** be fees that relate to the recovery of the costs of the Commission’s activities under this Act. |
| 352 | **Marginal note: Debt due to Her Majesty** |  |  |
| 353 | ~~(4) Fees payable by a licensee under this section and any interest thereon constitute a debt due to Her Majesty in right of Canada and may be recovered as such in any court of competent jurisdiction.~~ | (4) Fees payable under this section and any interest in respect of them constitute a debt due to Her Majesty in right of Canada and may be recovered as such in any court of competent jurisdiction. | (4) Fees payable under this section and any interest in respect of them constitute a debt due to Her Majesty in right of Canada and may be recovered as such in any court of competent jurisdiction. |
| 354 | Marginal note: Publication of proposed regulations | **Publication and representations** |  |
| 355 | ~~(5) A copy of each regulation that the Commission proposes to make under this section~~ **~~shall~~** ~~be published in the Canada Gazette and a reasonable opportunity~~ **~~shall~~** ~~be given to licensees and other interested persons to make representations to the Commission with respect thereto.~~ | (5) A copy of each regulation that the Commission proposes to make under this section **shall** be published in the Canada Gazette and a reasonable opportunity **shall** be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation. | (5) A copy of each regulation that the Commission proposes to make under this section **shall** be published in the *Canada Gazette* and a *reasonable* opportunity **shall** be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation. |
| 356 |  | **Regulations - expenditures** |  |
| 357 |  | 11.1 (1) The Commission may make regulations respecting expenditures to be made by persons carrying on broadcasting undertakings for the purposes of | 11.1 (1) The Commission may make regulations respecting expenditures to be made by persons carrying on broadcasting undertakings for the purposes of |
| 358 |  | (a) developing, financing, producing or promoting Canadian audio or audio-visual programs, including independent productions, for broadcasting by broadcasting undertakings; | (a) developing, financing, producing or promoting Canadian audio or audio-visual programs, including independent productions, for broadcasting by broadcasting undertakings; |
| 359 |  | (b) supporting, promoting or training Canadian creators of audio or audio-visual programs for broadcasting by broadcasting undertakings; or | (b) supporting, promoting or training Canadian creators of audio or audio-visual programs for broadcasting by broadcasting undertakings;  **~~or~~** |
| 360 |  |  | ***(b.1) SUPPORTING BROADCASTING UNDERTAKINGS OFFERING PROGRAMMING SERVICES THAT, IN THE COMMISSION’S OPINION, ARE OF EXCEPTIONAL IMPORTANCE TO THE ACHIEVEMENT OF THE OBJECTIVES OF THE BROADCASTING POLICY SET OUT IN SUBSECTION 3(1);*** |
| 361 |  | (c) supporting participation by persons, groups of persons or organizations representing the public interest in proceedings before the Commission under this Act. | (c) supporting participation by persons, groups of persons or organizations representing the public interest in proceedings before the Commission under this Act ***OR*** |
| 362 |  |  | ***(d) SUPPORTING THE DEVELOPMENT OF INITIATIVES — INCLUDING TOOLS — THAT, IN THE COMMISSION’S OPINION, ARE EFFICIENT AND NECESSARY FOR THE ACHIEVEMENT OF THE OBJECTIVES OF THE BROADCASTING POLICY SET OUT IN SUBSECTION 3(1).”; AND*** |
| 363 |  | **Order — particular broadcasting undertaking** |  |
| 364 |  | (2) The Commission may make an order respecting expenditures to be made by a particular person carrying on a broadcasting undertaking for any of the purposes set out in paragraphs (1)(a) to (c). | (2) The Commission may make an order respecting expenditures to be made by a particular person carrying on a broadcasting undertaking for any of the purposes set out in paragraphs (1)(a) to ~~(c)~~ ***(d)***. |
| 365 |  | **Minimum expenditures – original French language programs** |  |
| 366 |  | (3) Regulations and orders made under this section for the purposes set out in paragraph (1)(a) **shall** prescribe the minimum share of expenditures that are to be allocated to French language original programs in the case of broadcasting undertakings that offer programs in both official languages. | (3) Regulations and orders made under this section for the purposes set out in paragraph (1)(a) **shall** prescribe the minimum share of expenditures that are to be allocated to ***CANADIAN ORIGINAL* French language ~~original~~ programs** in the case of broadcasting undertakings that offer programs in both official languages. |
| 367 |  | **Application of regulations** |  |
| 368 |  | (4) A regulation made under this section may be made applicable to all persons carrying on broadcasting undertakings or to all persons carrying on broadcasting under takings of any class established by the Commission in the regulation. | (4) A regulation made under this section may be made applicable to all persons carrying on broadcasting undertakings or to all persons carrying on broadcasting under takings of any class established by the Commission in the regulation. |
| 369 |  | **Recipients** |  |
| 370 |  | (5) Regulations and orders made under this section may provide that an expenditure is to be paid to any person or organization, other than the Commission, or into any fund, other than a fund administered by the Commission. | (5) Regulations and orders made under this section may provide that an expenditure is to be paid to any person or organization, other than the Commission, or into any fund, other than a fund administered by the Commission. |
| 371 |  | **Criteria** |  |
| 372 |  | (6) Regulations and orders made under this section may provide for expenditures to be calculated by reference to any criteria that the Commission considers appropriate, including by reference to | (6) Regulations *and* orders made under this section may provide for expenditures to be calculated by reference to *any* criteria that the Commission considers *appropriate*, including by reference to |
| 373 |  | (a) the revenues of the persons carrying on broadcasting undertakings | (a) the revenues of the persons carrying on broadcasting undertakings |
| 374 |  | (b) the performance of the persons carrying on broadcasting undertakings in relation to objectives established by the Commission, including objectives for the broadcasting of Canadian programs; and | (b) the performance of the persons carrying on broadcasting undertakings in relation to objectives established by the Commission, including objectives for the broadcasting of Canadian programs; and |
| 375 |  | (c) the market served by the persons carrying on broadcasting undertakings. | (c) the market served by the persons carrying on broadcasting undertakings. |
| 376 |  | **Publication and representations** |  |
| 377 |  | (7) A copy of each regulation that the Commission proposes to make under this section **shall** be published in the Canada Gazette and a copy of each proposed order **shall** be published on the Commission’s website. A reasonable opportunity **shall** be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation or order. | (7) A copy of each regulation that the Commission proposes to make under this section **shall** be published in the Canada Gazette and a copy of each proposed order **shall** be published on the Commission’s website. A reasonable opportunity **shall** be given to persons carrying on broadcasting undertakings and other interested persons to make representations to the Commission with respect to the regulation or order. |
| 378 |  | **Non-application** |  |
| 379 |  | (8) The Statutory Instruments Act does not apply to orders made under subsection (2). | (8) The *Statutory Instruments Act* does not apply to orders made under subsection (2). |
| 381 | **Marginal note: Inquiries** | **Inquiries** |  |
| 382 | ~~12 (1) Where it appears to the Commission that~~ | 12 (1) The Commission may inquire into, hear and determine a matter if it appears to the Commission that | 12 (1) The Commission may inquire into, hear and determine a matter if it appears to the Commission that |
| 383 | ~~(a) any person has failed to do any act or thing that the person is required to do pursuant to this Part or to any regulation, licence, decision or order made or issued by the Commission under this Part, or has done or is doing any act or thing in contravention of this Part or of any such regulation, licence, decision or order,~~ | (a) any person is contravening or has contravened this Part or any regulation, licence, decision or order made or issued by the Commission under this Part; | (a) any person is contravening or has contravened this Part or any regulation, licence, decision or order made or issued by the Commission under this Part; |
| 384 | ~~(a.1) any person has done or is doing any act or thing in contravention of section 34.1,~~ | (b) any person is contravening or has contravened section 34.1; | (b) any person is contravening or has contravened section 34.1; |
| 385 | ~~(a.2) any person has failed to do any act or thing that the person is required to do under sections 42 to 44 of the~~ *~~Accessible Canada Act~~* ~~or has done or is doing any act or thing in contravention of any of those sections, or~~ | (c) any person is contravening or has contravened sections 42 to 44 of the Accessible Canada Act; or | (c) any person is contravening or has contravened sections 42 to 44 of the *Accessible Canada Act*; or |
| 386 | ~~(b) the circumstances may require the Commission to make any decision or order or to give any approval that it is authorized to make or give under this Part or under any regulation or order made under this Part,~~ | (d) the circumstances may require the Commission to make any decision or order or to give any approval that it is authorized to make or give under this Part or under any regulation or order made under this Part. | (d) the circumstances may require the Commission to make any decision or order or to give any approval that it is authorized to make or give under this Part or under any regulation or order made under this Part. |
| 388 | ~~the Commission may inquire into, hear and determine the matter.~~ |  |  |
| 389 | **Marginal note: Mandatory orders** |  |  |
| 390 | (2) The Commission may, by order, require any person to do, without delay or within or at any time and in any manner specified by the Commission, any act or thing that the person is or may be required to do under this Part, under any regulation, licence, decision or order made or issued by the Commission under this Part or under any of sections 42 to 44 of the Accessible Canada Act and may, by order, forbid the doing or continuing of any act or thing that is contrary to this Part, to any such regulation, licence, decision or order, to section 34.1 or to any of sections 42 to 44 of the Accessible Canada Act. | (2) The Commission may, by order, require any person to do, without delay or within or at any time and in any manner specified by the Commission, any act or thing that the person is or may be required to do under this Part, under any regulation, licence, decision or order made or issued by the Commission under this Part or under any of sections 42 to 44 of the Accessible Canada Act and may, by order, forbid the doing or continuing of any act or thing that is contrary to this Part, to any such regulation, licence, decision or order, to section 34.1 or to any of sections 42 to 44 of the Accessible Canada Act. | (2) The Commission may, by order, require any person to do, without delay or within or at any time and in any manner specified by the Commission, any act or thing that the person is or may be required to do under this Part, under any regulation, licence, decision or order made or issued by the Commission under this Part or under any of sections 42 to 44 of the Accessible Canada Act and may, by order, forbid the doing or continuing of any act or thing that is contrary to this Part, to any such regulation, licence, decision or order, to section 34.1 or to any of sections 42 to 44 of the Accessible Canada Act. |
| 391 | **Marginal note: Referral to Commission** |  |  |
| 392 | (3) Where an inquiry under subsection (1) is heard by a panel established under subsection 20(1) and the panel issues an order pursuant to subsection (2) of this section, any person who is affected by the order may, within thirty days after the making thereof, apply to the Commission to reconsider any decision or finding made by the panel, and the Commission may rescind or vary any order or decision made by the panel or may re-hear any matter before deciding it. | (3) Where an inquiry under subsection (1) is heard by a panel established under subsection 20(1) and the panel issues an order pursuant to subsection (2) of this section, any person who is affected by the order may, within thirty days after the making thereof, apply to the Commission to reconsider any decision or finding made by the panel, and the Commission may rescind or vary any order or decision made by the panel or may re-hear any matter before deciding it. | (3) Where an inquiry under subsection (1) is heard by a panel established under subsection 20(1) and the panel issues an order pursuant to subsection (2) of this section, any person who is affected by the order may, within thirty days after the making thereof, apply to the Commission to reconsider any decision or finding made by the panel, and the Commission may rescind or vary any order or decision made by the panel or may re-hear any matter before deciding it. |
| 394 | **Marginal note: Enforcement of mandatory orders** |  |  |
| 395 | 13 (1) Any order made under subsection 12(2) may be made an order of the Federal Court or of any superior court of a province and is enforceable in the same manner as an order of the court. | 13 (1) Any order made under subsection 12(2) may be made an order of the Federal Court or of any superior court of a province and is enforceable in the same manner as an order of the court. | 13 (1) Any order made under subsection 12(2) may be made an order of the Federal Court or of any superior court of a province and is enforceable in the same manner as an order of the court. |
| 396 | **Marginal note: Procedure** |  |  |
| 397 | (2) To make an order under subsection 12(2) an order of a court, the usual practice and procedure of the court in such matters may be followed or, in lieu thereof, the Commission may file with the registrar of the court a certified copy of the order, and thereupon the order becomes an order of the court. | (2) To make an order under subsection 12(2) an order of a court, the usual practice and procedure of the court in such matters may be followed or, in lieu thereof, the Commission may file with the registrar of the court a certified copy of the order, and thereupon the order becomes an order of the court. | (2) To make an order under subsection 12(2) an order of a court, the usual practice and procedure of the court in such matters may be followed or, in lieu thereof, the Commission may file with the registrar of the court a certified copy of the order, and thereupon the order becomes an order of the court. |
| 398 | **Marginal note: Effect of variation or rescission** |  |  |
| 399 | (3) Where an order that has been made an order of a court is rescinded or varied by a subsequent order of the Commission, the order of the court **shall** be deemed to have been cancelled and the subsequent order may, in the same manner, be made an order of the court. | (3) Where an order that has been made an order of a court is rescinded or varied by a subsequent order of the Commission, the order of the court **shall** be deemed to have been cancelled and the subsequent order may, in the same manner, be made an order of the court. | (3) Where an order that has been made an order of a court is rescinded or varied by a subsequent order of the Commission, the order of the court **shall** be deemed to have been cancelled and the subsequent order may, in the same manner, be made an order of the court. |
| 401 | **Marginal note: Research** |  |  |
| 402 | 14 (1) The Commission may undertake, sponsor, promote or assist in research relating to any matter within its jurisdiction under this Act and in so doing it **shall**, wherever appropriate, utilize technical, economic and statistical information and advice from the Corporation or departments or agencies of the Government of Canada. | 14 (1) The Commission may undertake, sponsor, promote or assist in research relating to any matter within its jurisdiction under this Act and in so doing it **shall**, wherever appropriate, utilize technical, economic and statistical information and advice from the Corporation or departments or agencies of the Government of Canada. | 14 (1) The Commission may undertake, sponsor, promote or assist in research relating to any matter within its jurisdiction under this Act and in so doing it **shall**, wherever appropriate, utilize technical, economic and statistical information and advice from the Corporation or departments or agencies of the Government of Canada. |
| 403 | **Marginal note: Review of technical matters** |  |  |
| 404 | (2) The Commission **shall** review and consider any technical matter relating to broadcasting referred to the Commission by the Minister and **shall** make recommendations to the Minister with respect thereto. | (2) The Commission **shall** review and consider any technical matter relating to broadcasting referred to the Commission by the Minister and **shall** make recommendations to the Minister with respect thereto. | (2) The Commission **shall** review and consider any technical matter relating to broadcasting referred to the Commission by the Minister and **shall** make recommendations to the Minister with respect thereto. |
| 406 | **Marginal note: Hearings and reports** |  |  |
| 407 | 15 (1) The Commission **shall**, on request of the Governor in Council, hold hearings or make reports on any matter within the jurisdiction of the Commission under this Act. | 15 (1) The Commission **shall**, on request of the Governor in Council, hold hearings or make reports on any matter within the jurisdiction of the Commission under this Act. | 15 (1) The Commission **shall**, on request of the Governor in Council, hold hearings or make reports on any matter within the jurisdiction of the Commission under this Act. |
| 408 | **Marginal note: Consultation** |  |  |
| 409 | (2) The Minister **shall** consult with the Commission with regard to any request proposed to be made by the Governor in Council under subsection (1). | (2) The Minister **shall** consult with the Commission with regard to any request proposed to be made by the Governor in Council under subsection (1). | (2) The Minister **shall** consult with the Commission with regard to any request proposed to be made by the Governor in Council under subsection (1). |
| 411 | **Marginal note: Powers respecting hearings** |  |  |
| 412 | 16 The Commission has, in respect of any hearing under this Part, with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents, the enforcement of its orders, the entry and inspection of property and other matters necessary or proper in relation to the hearing, all such powers, rights and privileges as are vested in a superior court of record. | 16 The Commission has, in respect of any hearing under this Part, with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents, the enforcement of its orders, the entry and inspection of property and other matters necessary or proper in relation to the hearing, all such powers, rights and privileges as are vested in a superior court of record. | 16 The Commission has, in respect of any hearing under this Part, with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents, the enforcement of its orders, the entry and inspection of property and other matters necessary or proper in relation to the hearing, all such powers, rights and privileges as are vested in a superior court of record. |
| 415 | **Marginal note: Authority re questions of fact or law** |  |  |
| 416 | 17 The Commission has authority to determine questions of fact or law in relation to any matter within its jurisdiction under this Act. | 17 The Commission has authority to determine questions of fact or law in relation to any matter within its jurisdiction under this Act. | 17 The Commission has authority to determine questions of fact or law in relation to any matter within its jurisdiction under this Act. |
| 418 | **Hearings and Procedure** |  |  |
| 419 | **Marginal note: Where public hearing required** |  |  |
| 420 | 18 (1) Except where otherwise provided, the Commission **shall** hold a public hearing in connection with | 18 (1) Except where otherwise provided, the Commission **shall** hold a public hearing in connection with | 18 (1) Except where otherwise provided, the Commission **shall** hold a public hearing in connection with |
| 421 | (a) the issue of a licence, other than a licence to carry on a temporary network operation; | (a) the issue of a licence, other than a licence to carry on a temporary network operation; | (a) the issue of a licence, other than a licence to carry on a temporary network operation; |
| 422 | (b) the suspension or revocation of a licence; | (b) the suspension or revocation of a licence; | (b) the suspension or revocation of a licence; |
| 423 | ~~(c) the establishing of any performance objectives for the purposes of paragraph 11(2)(b); and~~ | (c) the establishing of any performance objectives for the purposes of paragraphs 11(2)(b) and 11.1(6)(b); and | (c) the establishing of any performance objectives for the purposes of paragraphs 11(2)(b) and 11.1(6)(b); and |
| 424 | (d) the making of an order under subsection 12(2). | (d) the making of an order under subsection 12(2). | (d) the making of an order under subsection 12(2). |
| 425 | **Marginal note: Idem** |  |  |
| 426 | (2) The Commission **shall** hold a public hearing in connection with the amendment or renewal of a licence unless it is satisfied that such a hearing is not required in the public interest. | (2) The Commission **shall** hold a public hearing in connection with the amendment or renewal of a licence unless it is satisfied that such a hearing is not required in the public interest. | ***(2) THE COMMISSION SHALL ALSO HOLD A PUBLIC HEARING IN CONNECTION WITH THE FOLLOWING MATTERS UNLESS IT IS SATISFIED THAT SUCH A HEARING IS NOT REQUIRED IN THE PUBLIC INTEREST;*** |
| 427 |  |  | ***(a) THE AMENDMENT OR RENEWAL OF A LICENCE*** |
| 428 |  |  | ***(b) THE MAKING OF AN ORDER UNDER SUBSECTION 9.1(1) OR 11.1(2); AND*** |
| 429 |  |  | ***(c) THE MAKING OF ANY REGULATION UNDER THIS ACT*** |
| 430 |  |  | ***(2.1) A HEARING IN CONNECTION WITH A MATTER REFERRED TO IN PARAGRAPH (2)(b) OR (c) SHALL BE HELD AFTER THE PROPOSED ORDER OR REGULATION IN QUESTION IS PUBLISHED.*** |
| 431 |  |  |  |
| 432 | **Marginal note: Where public hearing in Commission’s discretion** |  |  |
| 433 | (3) The Commission may hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint or representation made to the Commission or in connection with any other matter within its jurisdiction under this Act if it is satisfied that it would be in the public interest to do so. | (3) The Commission may hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint or representation made to the Commission or in connection with any other matter within its jurisdiction under this Act if it is satisfied that it would be in the public interest to do so. | (3) The Commission may hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint or representation made to the Commission or in connection with any other matter within its jurisdiction under this Act if it is satisfied that it would be in the public interest to do so. |
| 434 | **Marginal note: Place of hearing** |  |  |
| 435 | (4) A public hearing under this section may be held at such place in Canada as the Chairperson of the Commission may designate. | (4) A public hearing under this section may be held at such place in Canada as the Chairperson of the Commission may designate. | (4) A public hearing under this section may be held at such place in Canada as the Chairperson of the Commission may designate. |
| 437 | **Marginal note: Notice of hearing** |  |  |
| 438 | 19 The Commission **shall** cause notice of | 19 The Commission **shall** cause notice of | 19 The Commission **shall** cause notice of |
| 439 | (a) any application received by it for the issue, amendment or renewal of a licence, other than a licence to carry on a temporary network operation, | (a) any application received by it for the issue, amendment or renewal of a licence, other than a licence to carry on a temporary network operation, | (a) any application received by it for the issue, amendment or renewal of a licence, other than a licence to carry on a temporary network operation, |
| 440 | (b) any decision made by it to issue, amend or renew a licence, and | (b) any decision made by it to issue, amend or renew a licence, and | (b) any decision made by it to issue, amend or renew a licence, and |
| 441 | (c) any public hearing to be held by it under section 18 | (c) any public hearing to be held by it under section 18 | (c) any public hearing to be held by it under section 18 |
| 442 | to be published in the *Canada Gazette* and in one or more newspapers of general circulation within any area affected or likely to be affected by the application, decision or matter to which the public hearing relates. | to be published in the Canada Gazette and in one or more newspapers of general circulation within any area affected or likely to be affected by the application, decision or matter to which the public hearing relates. | to be published in the *Canada Gazette* and in one or more newspapers of general circulation within any area affected or likely to be affected by the application, decision or matter to which the public hearing relates. |
| 444 | **Marginal note: Panels of Commission** |  |  |
| 445 | 20 (1) The Chairperson of the Commission may establish panels, each consisting of not fewer than three members of the Commission, to deal with, hear and determine any matter on behalf of the Commission. | 20 (1) The Chairperson of the Commission may establish panels, each consisting of not fewer than three members of the Commission, to deal with, hear and determine any matter on behalf of the Commission. | 20 (1) The Chairperson of the Commission may establish panels, each consisting of not fewer than three members of the Commission, to deal with, hear and determine any matter on behalf of the Commission. |
| 447 |  | (1.1) The Chairperson of the Commission may appoint members of the Commission to a panel if it is determined that the panel would otherwise have fewer than three members. | (1.1) The Chairperson of the Commission may appoint members of the Commission to a panel if it is determined that the panel would otherwise have fewer than three members. |
| 448 |  | (1.2) Members of the Commission may participate in any panel, unless this participation would place them in a conflict of interest. | (1.2) Members of the Commission may participate in any panel, unless this participation would place them in a conflict of interest. |
| 450 | **Marginal note: Powers** |  |  |
| 451 | (2) A panel that is established under subsection (1) has and may exercise all the powers and may perform all the duties and functions of the Commission in relation to any matter before the panel. | (2) A panel that is established under subsection (1) has and may exercise all the powers and may perform all the duties and functions of the Commission in relation to any matter before the panel. | (2) A panel that is established under subsection (1) has and may exercise all the powers and may perform all the duties and functions of the Commission in relation to any matter before the panel. |
| 452 | **Marginal note: Decision** |  |  |
| 453 | (3) A decision of a majority of the members of a panel established under subsection (1) is a decision of the panel. | (3) A decision of a majority of the members of a panel established under subsection (1) is a decision of the panel. | (3) A decision of a majority of the members of a panel established under subsection (1) is a decision of the panel. |
| 454 | **Marginal note: Consultation** |  |  |
| 455 | ~~(4) The members of a panel established under subsection (1)~~ **~~shall~~** ~~consult with the Commission, and may consult with any officer of the Commission, for the purpose of ensuring a consistency of interpretation of the broadcasting policy set out in subsection 3(1), the regulatory policy set out in subsection 5(2) and the regulations made by the Commission under sections 10 and 11.~~ | (4) The members of a panel established under subsection (1) **shall** consult with the Commission, and may consult with any officer of the Commission, for the purpose of ensuring a consistency of interpretation of the broadcasting policy set out in subsection 3(1), the regulatory policy set out in subsection 5(2), the orders made under section 9.1, the regulations made under sections 10 and 11 and the regulations and orders made under section 11.1. | (4) The members of a panel established under subsection (1) **shall** consult with the Commission, and may consult with any officer of the Commission, for the purpose of ensuring a consistency of interpretation of the broadcasting policy set out in subsection 3(1), the regulatory policy set out in subsection 5(2), the orders made under section 9.1, the regulations made under sections 10 and 11 and the regulations and orders made under section 11.1. |
| 457 | **Marginal note: Rules** |  |  |
| 458 | 21 The Commission may make rules | 21 The Commission may make rules | 21 The Commission may make rules |
| 459 | (a) respecting the procedure for making applications for licences, or for the amendment, renewal, suspension or revocation thereof, and for making representations and complaints to the Commission; and | (a) respecting the procedure for making applications for licences, or for the amendment, renewal, suspension or revocation thereof, and for making representations and complaints to the Commission; and | (a) respecting the procedure for making applications for licences, or for the amendment, renewal, suspension or revocation thereof, and for making representations and complaints to the Commission; and |
| 460 | (b) respecting the conduct of hearings and generally respecting the conduct of the business of the Commission in relation to those hearings. | (b) respecting the conduct of hearings and generally respecting the conduct of the business of the Commission in relation to those hearings. | (b) respecting the conduct of hearings and generally respecting the conduct of the business of the Commission in relation to those hearings. |
| 462 | **Licences** |  |  |
| 463 | **Marginal note: Conditions governing issue, amendment and renewal** |  |  |
| 464 | 22 (1) No licence **shall** be issued, amended or renewed under this Part | 22 (1) No licence **shall** be issued, amended or renewed under this Part | 22 (1) No licence **shall** be issued, amended or renewed under this Part |
| 465 | (a) if the issue, amendment or renewal of the licence is in contravention of a direction to the Commission issued by the Governor in Council under subsection 26(1); and | (a) if the issue, amendment or renewal of the licence is in contravention of a direction to the Commission issued by the Governor in Council under subsection 26(1); and | (a) if the issue, amendment or renewal of the licence is in contravention of a direction to the Commission issued by the Governor in Council under subsection 26(1); and |
| 466 | (b) subject to subsection (2), unless the Minister of Industry certifies to the Commission that the applicant for the issue, amendment or renewal of the licence | (b) subject to subsection (2), unless the Minister of Industry certifies to the Commission that the applicant for the issue, amendment or renewal of the licence | (b) subject to subsection (2), unless the Minister of Industry certifies to the Commission that the applicant for the issue, amendment or renewal of the licence |
| 467 | (i) has satisfied the requirements of the Radiocommunication Act and the regulations made under that Act, and | (i) has satisfied the requirements of the Radiocommunication Act and the regulations made under that Act, and | (i) has satisfied the requirements of the Radiocommunication Act and the regulations made under that Act, and |
| 468 | (ii) has been or will be issued a broadcasting certificate with respect to the radio apparatus that the applicant would be entitled to operate under the licence. | (ii) has been or will be issued a broadcasting certificate with respect to the radio apparatus that the applicant would be entitled to operate under the licence. | (ii) has been or will be issued a broadcasting certificate with respect to the radio apparatus that the applicant would be entitled to operate under the licence. |
| 469 | **Marginal note: Exception** |  |  |
| 470 | (2) The requirement set out in paragraph (1)(b) does not apply in respect of radio apparatus, or any class thereof, prescribed under paragraph 6(1)(m) of the Radiocommunication Act. | (2) The requirement set out in paragraph (1)(b) does not apply in respect of radio apparatus, or any class thereof, prescribed under paragraph 6(1)(m) of the Radiocommunication Act. | (2) The requirement set out in paragraph (1)(b) does not apply in respect of radio apparatus, or any class thereof, prescribed under paragraph 6(1)(m) of the Radiocommunication Act. |
| 471 | **Marginal note: Suspension or revocation of broadcasting certificate** |  |  |
| 472 | (3) No licence is of any force or effect during any period when the broadcasting certificate issued under the Radiocommunication Act with respect to the radio apparatus that the holder of the licence is entitled to operate under that Act is suspended or revoked. | (3) No licence is of any force or effect during any period when the broadcasting certificate issued under the Radiocommunication Act with respect to the radio apparatus that the holder of the licence is entitled to operate under that Act is suspended or revoked. | (3) No licence is of any force or effect during any period when the broadcasting certificate issued under the Radiocommunication Act with respect to the radio apparatus that the holder of the licence is entitled to operate under that Act is suspended or revoked. |
| 473 | Marginal note: Issue, etc., contravening this section | Marginal note: Issue, etc., contravening this section | Marginal note: Issue, etc., contravening this section |
| 474 | (4) Any licence issued, amended or renewed in contravention of this section is of no force or effect. | (4) Any licence issued, amended or renewed in contravention of this section is of no force or effect. | (4) Any licence issued, amended or renewed in contravention of this section is of no force or effect. |
| 475 | **Marginal note: Consultation between Commission and Corporation** |  |  |
| 476 | ~~23 (1) The Commission~~ **~~shall~~**~~, at the request of the Corporation, consult with the Corporation with regard to any conditions that the Commission proposes to attach to any licence issued or to be issued to the Corporation.~~ | 23 (1) The Commission **shall**, at the request of the Corporation, consult with the Corporation with regard to any conditions that the Commission proposes to impose under subsection 9.1(1) — or with regard to any regulation or order that the Commission proposes to make under section 11.1 — that would apply with respect to the Corporation. | 23 (1) The Commission **shall**, at the request of the Corporation, consult with the Corporation with regard to any conditions that the Commission proposes to impose under subsection 9.1(1) — or with regard to any regulation or order that the Commission proposes to make under section 11.1 — that would apply with respect to the Corporation. |
| 477 | **~~Marginal note: Reference to Minister~~** | **Reference to Minister** |  |
| 478 | ~~(2) If, notwithstanding the consultation provided for in subsection (1), the Commission attaches any condition to a licence referred to in subsection (1) that the Corporation is satisfied would unreasonably impede the Corporation in providing the programming contemplated by paragraphs 3(1)(l) and (m), the Corporation may, within thirty days after the decision of the Commission, refer the condition to the Minister for consideration.~~ | (2) If, despite the consultation **provided for in subsection (1)**, the Commission imposes any condition, or makes any regulation or order, referred to in subsection (1) that the Corporation is satisfied would unreasonably impede the Corporation in providing the programming contemplated by paragraphs 3(1)(l) and (m), the Corporation may, within 30 days after the condition is imposed or the regulation or order is made, refer the condition, regulation or order to the Minister for **consideration**. | (2) If, *despite the consultation* ***provided for in subsection (1)***, the Commission imposes any condition, or makes any regulation or order, referred to in subsection (1) that the Corporation is satisfied would unreasonably impede the Corporation in providing the programming contemplated by paragraphs 3(1)(l) and (m), the Corporation may, within 30 days after the condition is imposed or the regulation or order is made, refer the condition, regulation or order to the Minister for ***consideration***. |
| 479 | **~~Marginal note: Ministerial directive~~** | **Ministerial directive** |  |
| 480 | ~~(3) Subject to subsection (4), the Minister may, within ninety days after a condition is referred to the Minister under subsection (2), issue to the Commission a written directive with respect to the condition and the Commission~~ **~~shall~~** ~~comply with any such directive issued by the Minister.~~ | (3) Subject to subsection (4), the Minister may, within 90 days after a condition, regulation or order is referred to the Minister under subsection (2), issue to the Commission a written directive with respect to the condition, regulation or order and the Commission **shall** comply with any such directive issued by the Minister. | (3) Subject to subsection (4), the Minister may, within 90 days after a condition, regulation or order is referred to the Minister under subsection (2), issue to the Commission a written directive with respect to the condition, regulation or order and the Commission **shall** comply with any such directive issued by the Minister. |
| 481 | **Marginal note: Consultation** |  |  |
| 482 | (4) The Minister **shall** consult with the Commission and with the Corporation before issuing a directive under subsection (3). | (4) The Minister **shall** consult with the Commission and with the Corporation before issuing a directive under subsection (3). | (4) The Minister **shall** consult with the Commission and with the Corporation before issuing a directive under subsection (3). |
| 483 | **Marginal note: Publication and tabling of directive** |  |  |
| 484 | (5) A directive issued by the Minister under subsection (3) **shall** be published forthwith in the Canada Gazette and **shall** be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the directive is issued. | (5) A directive issued by the Minister under subsection (3) **shall** be published forthwith in the Canada Gazette and **shall** be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the directive is issued. | (5) A directive issued by the Minister under subsection (3) **shall** be published forthwith in the Canada Gazette and **shall** be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the directive is issued. |
| 486 | **Marginal note: Conditions governing suspension and revocation** |  |  |
| 487 | 24 (1) No licence **shall** be suspended or revoked under this Part unless the licensee applies for or consents to the suspension or revocation or, in any other case, unless, after a public hearing in accordance with section 18, the Commission is satisfied that | 24 (1) No licence **shall** be suspended or revoked under this Part unless the licensee applies for or consents to the suspension or revocation or, in any other case, unless, after a public hearing in accordance with section 18, the Commission is satisfied that | 24 (1) No licence **shall** be suspended or revoked under this Part unless the licensee applies for or consents to the suspension or revocation or, in any other case, unless, after a public hearing in accordance with section 18, the Commission is satisfied that |
| 488 | ~~(a) the licensee has contravened or failed to comply with any condition of the licence or with any order made under subsection 12(2) or any regulation made under this Part; or~~ | (a) the licensee has contravened any order made under subsection 9.1(1), 11.1(2) or 12(2) or any regulation made under this Part; or | (a) the licensee has contravened any order made under subsection 9.1(1), 11.1(2) or 12(2) or any regulation made under this Part; or |
| 489 | (b) the licence was, at any time within the two years immediately preceding the date of publication in the Canada Gazette of the notice of the public hearing, held by a person to whom the licence could not have been issued at that time by virtue of a direction to the Commission issued by the Governor in Council under this Act. | (b) the licence was, at any time within the two years immediately preceding the date of publication in the Canada Gazette of the notice of the public hearing, held by a person to whom the licence could not have been issued at that time by virtue of a direction to the Commission issued by the Governor in Council under this Act. | (b) the licence was, at any time within the two years immediately preceding the date of publication in the Canada Gazette of the notice of the public hearing, held by a person to whom the licence could not have been issued at that time by virtue of a direction to the Commission issued by the Governor in Council under this Act. |
| 490 | **Marginal note: Licences of Corporation** |  |  |
| 491 | (2) No licence issued to the Corporation that is referred to in the schedule may be suspended or revoked under this Part except on application of or with the consent of the Corporation. | (2) No licence issued to the Corporation that is referred to in the schedule may be suspended or revoked under this Part except on application of or with the consent of the Corporation. | (2) No licence issued to the Corporation that is referred to in the schedule may be suspended or revoked under this Part except on application of or with the consent of the Corporation. |
| 492 | **Marginal note: Publication of decision** |  |  |
| 493 | (3) A copy of a decision of the Commission relating to the suspension or revocation of a licence, together with written reasons for the decision, **shall**, forthwith after the making of the decision, be forwarded by prepaid registered mail to all persons who were heard at or made any oral representations in connection with the hearing held under subsection (1), and a summary of the decision and of the reasons for the decision **shall**, at the same time, be published in the Canada Gazette and in one or more newspapers of general circulation within any area affected or likely to be affected by the decision. | (3) A copy of a decision of the Commission relating to the suspension or revocation of a licence, together with written reasons for the decision, **shall**, forthwith after the making of the decision, be forwarded by prepaid registered mail to all persons who were heard at or made any oral representations in connection with the hearing held under subsection (1), and a summary of the decision and of the reasons for the decision **shall**, at the same time, be published in the Canada Gazette and in one or more newspapers of general circulation within any area affected or likely to be affected by the decision. | (3) A copy of a decision of the Commission relating to the suspension or revocation of a licence, together with written reasons for the decision, **shall**, forthwith after the making of the decision, be forwarded by prepaid registered mail to all persons who were heard at or made any oral representations in connection with the hearing held under subsection (1), and a summary of the decision and of the reasons for the decision **shall**, at the same time, be published in the Canada Gazette and in one or more newspapers of general circulation within any area affected or likely to be affected by the decision. |
| 495 | **Marginal note: Report of alleged contravention or non-compliance by Corporation** |  |  |
| 496 | ~~25 (1) Where the Commission is satisfied, after a public hearing on the matter, that the Corporation has contravened or failed to comply with any condition of a licence referred to in the schedule, any order made under subsection 12(2) or any regulation made under this Part, the Commission~~ **~~shall~~** ~~forward to the Minister a report setting out the circumstances of the alleged contravention or failure, the findings of the Commission and any observations or recommendations of the Commission in connection therewith.~~ | 25 (1) If the Commission is satisfied, after a public hearing on the matter, that the Corporation has contravened section 31.1, any order made under subsection 9.1(1), 11.1(2) or 12(2) or any regulation made under this Part, the Commission **shall** forward to the Minister a report setting out the circumstances of the contravention, the findings of the Commission and any observations or recommendations of the Commission in connection with the contravention. | 25 (1) If the Commission is satisfied, after a public hearing on the matter, that the Corporation has contravened section 31.1, any order made under subsection 9.1(1), 11.1(2) or 12(2) or any regulation made under this Part, the Commission **shall** forward to the Minister a report setting out the circumstances of the contravention, the findings of the Commission and any observations or recommendations of the Commission in connection with the contravention. |
| 497 | **Marginal note: Report to be tabled** |  |  |
| 498 | (2) The Minister **shall** cause a copy of the report referred to in subsection (1) to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report is received by the Minister. | (2) The Minister **shall** cause a copy of the report referred to in subsection (1) to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report is received by the Minister. | (2) The Minister **shall** cause a copy of the report referred to in subsection (1) to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report is received by the Minister. |
| 499 |  | **Provision of Information by Commission** |  |
| 500 |  | **Minister or Chief Statistician** |  |
| 501 |  | 25.1 The Commission **shall**, on request, provide the Minister or the Chief Statistician of Canada with any information submitted to the Commission in respect of a broadcasting undertaking. | 25.1 The Commission **shall**, on request, provide the Minister or the Chief Statistician of Canada with any information submitted to the Commission in respect of a broadcasting undertaking. |
| 502 |  | **Access to information** |  |
| 503 |  | 25.2 Subject to section 25.3, the Commission **shall** **proactively** make available for public inspection any information submitted to the Commission in the course of proceedings before it. | 25.2 Subject to section 25.3, the Commission **shall** proactively make available for public inspection any information submitted to the Commission in the course of proceedings before it. |
| 504 |  | **Confidential information** |  |
| 505 |  | 25.3 (1) A person who submits any of the following information to the Commission may designate it as confidential: | 25.3 (1) A person who submits any of the following information to the Commission may designate it as confidential: |
| 506 |  | (a) information that is a trade secret; | (a) information that is a trade secret; |
| 507 |  | (b) financial, commercial, scientific or technical information that is confidential and that is treated consistently in a confidential manner by the person who submitted it; or | (b) financial, commercial, scientific or technical information that is confidential and that is treated consistently in a confidential manner by the person who submitted it; or |
| 508 |  | (c) information the disclosure of which could reasonably be expected | (c) information the disclosure of which could reasonably be expected |
| 509 |  | (i) to result in material financial loss or gain to any person, | (i) to result in material financial loss or gain to any person, |
| 510 |  | (ii) to prejudice the competitive position of any person, or | (ii) to prejudice the competitive position of any person, or |
| 511 |  | (iii) to affect contractual or other negotiations of any person. | (iii) to affect contractual or other negotiations of any person. |
| 512 |  | **Information not to be disclosed** |  |
| 513 |  | (2) Subject to subsections (4), (5) and (7), if a person designates information as confidential and the designation is not withdrawn by that person, no person described in subsection (3) **shall** knowingly disclose the information, or knowingly allow it to be disclosed, to any other person in any manner that is intended or likely to make it available for the use of any person who may benefit from the information or use it to the detriment of any person to whose business or affairs the information relates. | (2) Subject to subsections (4), (5) and (7), if a person designates information as confidential and the designation is not withdrawn by that person, no person described in subsection (3) **shall** knowingly disclose the information, or knowingly allow it to be disclosed, to any other person in any manner that is intended or likely to make it available for the use of any person who may benefit from the information or use it to the detriment of any person to whose business or affairs the information relates. |
| 514 |  | **Persons who shall not disclose information** |  |
| 515 |  | (3) Subsection (2) applies to any person referred to in any of the following paragraphs who comes into possession of designated information while holding the office or employment described in that paragraph, whether or not the person has ceased to hold that office or be so employed: | (3) Subsection (2) applies to any person referred to in any of the following paragraphs who comes into possession of designated information while holding the office or employment described in that paragraph, whether or not the person has ceased to hold that office or be so employed: |
| 516 |  | (a) a member of, or a person employed by, the Commission; | (a) a member of, or a person employed by, the Commission; |
| 517 |  | (b) in respect of information disclosed under paragraph (4)(b) or (5)(b), the Commissioner of Competition appointed under the Competition Act or a person whose duties involve the carrying out of that Act and who is referred to in section 25 of that Act; | (b) in respect of information disclosed under paragraph (4)(b) or (5)(b), the Commissioner of Competition appointed under the *Competition Act* or a person whose duties involve the carrying out of that Act and who is referred to in section 25 of that Act; |
| 518 |  | (c) in respect of information provided under section 25.1, the Minister, the Chief Statistician of Canada or an agent of or a person employed in the federal public administration. | (c) in respect of information provided under section 25.1, the Minister, the Chief Statistician of Canada or an agent of or a person employed in the federal public administration. |
| 519 |  | **Disclosure of information submitted in proceedings** |  |
| 520 |  | (4) If designated information is submitted in the course of proceedings before the Commission, the Commission may, while protecting the privacy of Canadians, | (4) If designated information is submitted in the course of proceedings before the Commission, the Commission may, while protecting the privacy of Canadians, |
| 521 |  | (a) disclose the information or require its disclosure if the Commission determines, after considering any representations from interested persons, that the disclosure is in the public interest; and | (a) disclose the information or require its disclosure if the Commission determines, after considering any representations from interested persons, that the disclosure is in the public interest; and |
| 522 |  | (b) disclose the information or require its disclosure to the Commissioner of Competition on the Commissioner’s request if the Commission determines that the information is relevant to competition issues being considered in the proceedings. | (b) disclose the information or require its disclosure to the Commissioner of Competition on the Commissioner’s request if the Commission determines that the information is relevant to competition issues being considered in the proceedings. |
| 523 |  | **Disclosure of other information** |  |
| 524 |  | (5) If designated information is submitted to the Commission otherwise than in the course of proceedings before it, the Commission may, while protecting the privacy of Canadians, | (5) If designated information is submitted to the Commission otherwise than in the course of proceedings before it, the Commission may, while protecting the privacy of Canadians, |
| 525 |  | (a) disclose the information or require its disclosure if, after considering any representations from interested persons, the Commission considers that the information is relevant to a matter arising in the exercise of its powers or the performance of its duties and functions and determines that the disclosure is in the public interest; and | (a) disclose the information or require its disclosure if, after considering any representations from interested persons, the Commission considers that the information is relevant to a matter arising in the exercise of its powers or the performance of its duties and functions and determines that the disclosure is in the public interest; and |
| 526 |  | (b) disclose the information or require its disclosure to the Commissioner of Competition, on the Commissioner’s request, if the Commission considers that the information is relevant to competition issues that are related to such a matter. | (b) disclose the information or require its disclosure to the Commissioner of Competition, on the Commissioner’s request, if the Commission considers that the information is relevant to competition issues that are related to such a matter. |
| 527 |  | (6) Neither the Commissioner of Competition nor any person whose duties involve the administration and enforcement of the Competition Act and who is referred to in section 25 of that Act **shall** use information that is disclosed | (6) Neither the Commissioner of Competition nor any person whose duties involve the administration and enforcement of the *Competition Act* and who is referred to in section 25 of that Act **shall** use information that is disclosed |
| 528 |  | (a) under paragraph (4)(b) other than to facilitate the Commissioner’s participation in proceedings referred to in subsection (4); or | (a) under paragraph (4)(b) other than to facilitate the Commissioner’s participation in proceedings referred to in subsection (4); or |
| 529 |  | (b) under paragraph (5)(b) other than to facilitate the Commissioner’s participation in a matter referred to in subsection (5). | (b) under paragraph (5)(b) other than to facilitate the Commissioner’s participation in a matter referred to in subsection (5). |
| 530 |  | **Information inadmissible** | **Information inadmissible** |
| 531 |  | (7) Designated information that is not disclosed or required to be disclosed under this section is not admissible in evidence in any judicial proceedings except proceedings for failure to submit information required to be submitted under this Act or for forgery, perjury or false declaration in relation to the submission of the information. | (7) Designated information that is not disclosed or required to be disclosed under this section is not admissible in evidence in any judicial proceedings except proceedings for failure to submit information required to be submitted under this Act or for forgery, perjury or false declaration in relation to the submission of the information. |
| 532 | **General Powers of the Governor in Council** |  |  |
| 533 | **Marginal note: Directions** |  |  |
| 534 | 26 (1) The Governor in Council may, by order, issue directions to the Commission | 26 (1) The Governor in Council may, by order, issue directions to the Commission | 26 (1) The Governor in Council may, by order, issue directions to the Commission |
| 535 | (a) respecting the maximum number of channels or frequencies for the use of which licences may be issued within a geographical area designated in the order; | (a) respecting the maximum number of channels or frequencies for the use of which licences may be issued within a geographical area designated in the order; | (a) respecting the maximum number of channels or frequencies for the use of which licences may be issued within a geographical area designated in the order; |
| 536 | (b) respecting the reservation of channels or frequencies for the use of the Corporation or for any special purpose designated in the order; | (b) respecting the reservation of channels or frequencies for the use of the Corporation or for any special purpose designated in the order; | (b) respecting the reservation of channels or frequencies for the use of the Corporation or for any special purpose designated in the order; |
| 537 | (c) respecting the classes of applicants to whom licences may not be issued or to whom amendments or renewals thereof may not be granted; and | (c) respecting the classes of applicants to whom licences may not be issued or to whom amendments or renewals thereof may not be granted; and | (c) respecting the classes of applicants to whom licences may not be issued or to whom amendments or renewals thereof may not be granted; and |
| 538 | (d) prescribing the circumstances in which the Commission may issue licences to applicants that are agents of a province and are otherwise ineligible to hold a licence, and the conditions on which those licences may be issued. | (d) prescribing the circumstances in which the Commission may issue licences to applicants that are agents of a province and are otherwise ineligible to hold a licence, and the conditions on which those licences may be issued. | (d) prescribing the circumstances in which the Commission may issue licences to applicants that are agents of a province and are otherwise ineligible to hold a licence, and the conditions on which those licences may be issued. |
| 539 | **Marginal note: Idem** |  |  |
| 540 | (2) Where the Governor in Council deems the broadcast of any program to be of urgent importance to Canadians generally or to persons resident in any area of Canada, the Governor in Council may, by order, direct the Commission to issue a notice to licensees throughout Canada or throughout any area of Canada, of any class specified in the order, requiring the licensees to broadcast the program in accordance with the order, and licensees to whom any such notice is addressed **shall** comply with the notice. | (2) Where the Governor in Council deems the broadcast of any program to be of urgent importance to Canadians generally or to persons resident in any area of Canada, the Governor in Council may, by order, direct the Commission to issue a notice to licensees throughout Canada or throughout any area of Canada, of any class specified in the order, requiring the licensees to broadcast the program in accordance with the order, and licensees to whom any such notice is addressed **shall** comply with the notice. | (2) Where the Governor in Council deems the broadcast of any program to be of urgent importance to Canadians generally or to persons resident in any area of Canada, the Governor in Council may, by order, direct the Commission to issue a notice to licensees throughout Canada or throughout any area of Canada, of any class specified in the order, requiring the licensees to broadcast the program in accordance with the order, and licensees to whom any such notice is addressed **shall** comply with the notice. |
| 541 | **Marginal note: Publication and tabling** |  |  |
| 542 | (3) An order made under subsection (1) or (2) **shall** be published forthwith in the Canada Gazette and a copy thereof **shall** be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the making of the order. | (3) An order made under subsection (1) or (2) **shall** be published forthwith in the Canada Gazette and a copy thereof **shall** be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the making of the order. | (3) An order made under subsection (1) or (2) **shall** be published forthwith in the Canada Gazette and a copy thereof **shall** be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the making of the order. |
| 543 | **Marginal note: Consultation** |  |  |
| 544 | (4) The Minister **shall** consult with the Commission with regard to any order proposed to be made by the Governor in Council under subsection (1). | (4) The Minister **shall** consult with the Commission with regard to any order proposed to be made by the Governor in Council under subsection (1). | (4) The Minister **shall** consult with the Commission with regard to any order proposed to be made by the Governor in Council under subsection (1). |
| 545 | **Marginal note: Directions – Free Trade Agreement** |  |  |
| 546 | 27 (1) The Governor in Council may, on the recommendation of the Minister, issue directions | 27 (1) The Governor in Council may, on the recommendation of the Minister, issue directions | 27 (1) The Governor in Council may, on the recommendation of the Minister, issue directions |
| 547 | (a) requiring the Commission to implement paragraphs 1 and 4 of Annex 15-D of the Agreement and specifying the manner in which, and the date on or before which, those paragraphs are to be implemented; | (a) requiring the Commission to implement paragraphs 1 and 4 of Annex 15-D of the Agreement and specifying the manner in which, and the date on or before which, those paragraphs are to be implemented; | (a) requiring the Commission to implement paragraphs 1 and 4 of Annex 15-D of the Agreement and specifying the manner in which, and the date on or before which, those paragraphs are to be implemented; |
| 548 | (b) respecting the manner in which the Commission **shall** apply or interpret paragraph 3 of that Annex; and | (b) respecting the manner in which the Commission **shall** apply or interpret paragraph 3 of that Annex; and | (b) respecting the manner in which the Commission **shall** apply or interpret paragraph 3 of that Annex; and |
| 549 | (c) requiring the Commission to cancel any measure taken by the Commission in the implementation of paragraph 4 of that Annex on the date the Agreement ceases to have effect, or such later date as the Governor in Council may specify. | (c) requiring the Commission to cancel any measure taken by the Commission in the implementation of paragraph 4 of that Annex on the date the Agreement ceases to have effect, or such later date as the Governor in Council may specify. | (c) requiring the Commission to cancel any measure taken by the Commission in the implementation of paragraph 4 of that Annex on the date the Agreement ceases to have effect, or such later date as the Governor in Council may specify. |
| 550 | **Marginal note: Consultation** |  |  |
| 551 | (2) The Minister **shall** consult with the Commission with regard to any direction proposed to be issued by the Governor in Council under subsection (1). | (2) The Minister **shall** consult with the Commission with regard to any direction proposed to be issued by the Governor in Council under subsection (1). | (2) The Minister **shall** consult with the Commission with regard to any direction proposed to be issued by the Governor in Council under subsection (1). |
| 552 | **Marginal note: Directions binding** |  |  |
| 553 | (3) A direction issued under subsection (1) is binding on the Commission from the time it comes into force. | (3) A direction issued under subsection (1) is binding on the Commission from the time it comes into force. | (3) A direction issued under subsection (1) is binding on the Commission from the time it comes into force. |
| 554 | **Marginal note: Definition of Agreement** |  |  |
| 555 | (4) In this section, Agreement has the same meaning as in section 2 of the Canada–United States–Mexico Agreement Implementation Act. | (4) In this section, Agreement has the same meaning as in section 2 of the Canada–United States–Mexico Agreement Implementation Act. | (4) In this section, Agreement has the same meaning as in section 2 of the Canada–United States–Mexico Agreement Implementation Act. |
| 557 | **Marginal note: Setting aside or referring decisions back to Commission** |  |  |
| 558 | ~~28 (1) Where the Commission makes a decision to issue, amend or renew a licence, the Governor in Council may, within ninety days after the date of the decision, on petition in writing of any person received within forty-five days after that date or on the Governor in Council’s own motion, by order, set aside the decision or refer the decision back to the Commission for reconsideration and hearing of the matter by the Commission, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in subsection 3(1).~~ | 28 (1) If the Commission makes a decision under section 9 to issue, amend or renew a licence, the Governor in Council may, within 180 days after the date of the decision, on petition in writing of any person received within 45 days after that date or on the Governor in Council’s own motion, by order, set aside the decision or refer the decision back to the Commission for reconsideration and hearing of the matter by the Commission, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in subsection 3(1). | 28 (1) If the Commission makes a decision under section 9 to issue, amend or renew a licence, the Governor in Council may, within 180 days after the date of the decision, on petition in writing of any person received within 45 days after that date or on the Governor in Council’s own motion, by order, set aside the decision or refer the decision back to the Commission for reconsideration and hearing of the matter by the Commission, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in subsection 3(1). |
| 559 | **Marginal note: Order on reference back** |  |  |
| 560 | (2) An order made under subsection (1) that refers a decision back to the Commission for reconsideration and hearing **shall** set out the details of any matter that, in the opinion of the Governor in Council, may be material to the reconsideration and hearing. | (2) An order made under subsection (1) that refers a decision back to the Commission for reconsideration and hearing **shall** set out the details of any matter that, in the opinion of the Governor in Council, may be material to the reconsideration and hearing. | (2) An order made under subsection (1) that refers a decision back to the Commission for reconsideration and hearing **shall** set out the details of any matter that, in the opinion of the Governor in Council, may be material to the reconsideration and hearing. |
| 561 | **Marginal note: Powers on reference back** |  |  |
| 562 | (3) Where a decision is referred back to the Commission under this section, the Commission **shall** reconsider the matter and, after a hearing as provided for by subsection (1), may | (3) Where a decision is referred back to the Commission under this section, the Commission **shall** reconsider the matter and, after a hearing as provided for by subsection (1), may | (3) Where a decision is referred back to the Commission under this section, the Commission **shall** reconsider the matter and, after a hearing as provided for by subsection (1), may |
| 563 | (a) rescind the decision or the issue, amendment or renewal of the licence; | (a) rescind the decision or the issue, amendment or renewal of the licence; | (a) rescind the decision or the issue, amendment or renewal of the licence; |
| 564 | ~~(b) rescind the issue of the licence and issue a licence on the same or different conditions to another person; or~~ | (b) rescind the issue of the licence and issue a licence to another person; or | (b) rescind the issue of the licence and issue a licence to another person; or |
| 565 | (c) confirm, either with or without change, variation or alteration, the decision or the issue, amendment or renewal of the licence. | (c) confirm, either with or without change, variation or alteration, the decision or the issue, amendment or renewal of the licence. | (c) confirm, either with or without change, variation or alteration, the decision or the issue, amendment or renewal of the licence. |
| 566 | Marginal note: Setting aside after confirmation |  |  |
| 567 | ~~(4) Where, pursuant to paragraph (3)(c), the Commission confirms a decision or the issue, amendment or renewal of a licence, the Governor in Council may, within sixty days after the confirmation, on petition in writing of any person received within thirty days after that date or on the Governor in Council’s own motion, by order, set aside the decision or the issue, amendment or renewal, if the Governor in Council is satisfied as to any of the matters referred to in subsection (1).~~ | [Repealed] | [Repealed] |
| 568 | ~~Marginal note: Reasons~~ |  |  |
| 569 | ~~(5) An order made under subsection (4) to set aside a decision or the issue, amendment or renewal of a licence~~ **~~shall~~** ~~set out the reasons of the Governor in Council therefor.~~ | [Repealed ] | [Repealed ] |
| 571 | Marginal note: Filing of petitions |  |  |
| 572 | ~~29 (1) Every person who petitions the Governor in Council under subsection 28(1) or (4)~~ **~~shall~~** ~~at the same time send a copy of the petition to the Commission.~~ | 29 (1) Every person who petitions the Governor in Council under subsection 28(1) **shall** at the same time send a copy of the petition to the Commission. | 29 (1) Every person who petitions the Governor in Council under subsection 28(1) **shall** at the same time send a copy of the petition to the Commission. |
| 573 | **Marginal note: Notice** |  |  |
| 574 | (2) On receipt of a petition under subsection (1), the Commission **shall** forward a copy of the petition by prepaid registered mail to all persons who were heard at or made any oral representation in connection with the hearing held in the matter to which the petition relates. | (2) On receipt of a petition under subsection (1), the Commission **shall** forward a copy of the petition by prepaid registered mail to all persons who were heard at or made any oral representation in connection with the hearing held in the matter to which the petition relates. | (2) On receipt of a petition under subsection (1), the Commission **shall** forward a copy of the petition by prepaid registered mail to all persons who were heard at or made any oral representation in connection with the hearing held in the matter to which the petition relates. |
| 575 | **Marginal note: Register** |  |  |
| 576 | ~~(3) The Commission~~ **~~shall~~** ~~establish and maintain a public register in which~~ **~~shall~~** ~~be kept a copy of each petition received by the Commission under subsection 28(1) or (4).~~ | (3) The Commission **shall** establish and maintain a public register in which **shall** be kept a copy of each petition received by the Commission. | (3) The Commission **shall** establish and maintain a public register in which **shall** be kept a copy of each petition received by the Commission. |
| 577 | **Marginal note: Amendment of schedule** |  |  |
| 578 | 30 The Governor in Council may, on the recommendation of the Minister made on the request of the Commission and with the consent of the Corporation, amend the schedule. | 30 The Governor in Council may, on the recommendation of the Minister made on the request of the Commission and with the consent of the Corporation, amend the schedule. | 30 The Governor in Council may, on the recommendation of the Minister made on the request of the Commission and with the consent of the Corporation, amend the schedule. |
| 579 | **Decisions and Orders** |  |  |
| 580 | **Marginal note: Decisions and orders final** |  |  |
| 581 | 31 (1) Except as provided in this Part, every decision and order of the Commission is final and conclusive. | 31 (1) Except as provided in this Part, every decision and order of the Commission is final and conclusive. | 31 (1) Except as provided in this Part, every decision and order of the Commission is final and conclusive. |
| 582 | **Marginal note: Appeal to Federal Court of Appeal** |  |  |
| 583 | (2) An appeal lies from a decision or order of the Commission to the Federal Court of Appeal on a question of law or a question of jurisdiction if leave therefor is obtained from that Court on application made within one month after the making of the decision or order sought to be appealed from or within such further time as that Court under special circumstances allows. | (2) An appeal lies from a decision or order of the Commission to the Federal Court of Appeal on a question of law or a question of jurisdiction if leave therefor is obtained from that Court on application made within one month after the making of the decision or order sought to be appealed from or within such further time as that Court under special circumstances allows. | (2) An appeal lies from a decision or order of the Commission to the Federal Court of Appeal on a question of law or a question of jurisdiction if leave therefor is obtained from that Court on application made within one month after the making of the decision or order sought to be appealed from or within such further time as that Court under special circumstances allows. |
| 584 | **Marginal note: Entry of appeal** |  |  |
| 585 | (3) No appeal lies after leave therefor has been obtained under subsection (2) unless it is entered in the Federal Court of Appeal within sixty days after the making of the order granting leave to appeal. | (3) No appeal lies after leave therefor has been obtained under subsection (2) unless it is entered in the Federal Court of Appeal within sixty days after the making of the order granting leave to appeal. | (3) No appeal lies after leave therefor has been obtained under subsection (2) unless it is entered in the Federal Court of Appeal within sixty days after the making of the order granting leave to appeal. |
| 586 | **Marginal note: Document deemed decision or order** |  |  |
| 587 | (4) Any document issued by the Commission in the form of a decision or order **shall**, if it relates to the issue, amendment, renewal, revocation or suspension of a licence, be deemed for the purposes of this section to be a decision or order of the Commission. | (4) Any document issued by the Commission in the form of a decision or order **shall**, if it relates to the issue, amendment, renewal, revocation or suspension of a licence, be deemed for the purposes of this section to be a decision or order of the Commission. | (4) Any document issued by the Commission in the form of a decision or order **shall**, if it relates to the issue, amendment, renewal, revocation or suspension of a licence, be deemed for the purposes of this section to be a decision or order of the Commission. |
| 588 |  | **Prohibition** |  |
| 589 |  | **Carrying on broadcasting undertaking** |  |
| 590 |  | 31.1 (1) A person **shall** not carry on a broadcasting undertaking unless | 31.1 (1) A person **shall** not carry on a broadcasting undertaking unless |
| 591 |  | (a) they do so in accordance with a licence issued to them; or | (a) they do so in accordance with a licence issued to them; or |
| 592 |  | (b) they are exempt, under an order made under subsection 9(4), from the requirement to hold a licence. | (b) they are exempt, under an order made under subsection 9(4), from the requirement to hold a licence. |
| 593 |  | **Exception — online undertaking** |  |
| 594 |  | (2) Despite subsection (1), a person may carry on an online undertaking without a licence and without being so exempt. | (2) Despite subsection (1), a person may carry on an online undertaking without a licence and without being so exempt. |
| 595 | **Marginal note: Broadcasting without or contrary to licence** | **Broadcasting contrary to Act** |  |
| 596 | ~~32 (1) Every person who, not being exempt from the requirement to hold a licence, carries on a broadcasting undertaking without a licence therefor is guilty of an offence punishable on summary conviction and is liable~~ | 32 Every person who contravenes section 31.1 is guilty of an offence punishable on summary conviction and is liable | 32 Every person who contravenes section 31.1 is guilty of an offence punishable on summary conviction and is liable |
| 597 | ~~(a) in the case of an individual, to a fine not exceeding twenty thousand dollars for each day that the offence continues; or~~ | (a) in the case of an individual, to a fine of not more than $25,000 for each day that the offence continues; or | (a) in the case of an individual, to a fine of not more than $25,000 for each day that the offence continues; or |
| 598 | ~~(b) in the case of a corporation, to a fine not exceeding two hundred thousand dollars for each day that the offence continues.~~ | (b) in the case of a corporation, to a fine of not more than $250,000 for each day that the offence continues. | (b) in the case of a corporation, to a fine of not more than $250,000 for each day that the offence continues. |
| 599 | **Marginal note: Contravention of regulation or order** |  |  |
| 600 | ~~(2) Every person who contravenes or fails to comply with any regulation or order made under this Part is guilty of an offence punishable on summary conviction and is liable~~ |  |  |
| 601 | ~~(a) in the case of an individual, to a fine not exceeding twenty-five thousand dollars for a first offence and not exceeding fifty thousand dollars for each subsequent offence; or~~ |  |  |
| 602 | ~~(b) in the case of a corporation, to a fine not exceeding two hundred and fifty thousand dollars for a first offence and not exceeding five hundred thousand dollars for each subsequent offence.~~ |  |  |
| 603 | **Marginal note: Contravention of conditions of licence** |  |  |
| 604 | ~~33 Every person who contravenes or fails to comply with any condition of a licence issued to the person is guilty of an offence punishable on summary conviction.~~ | 33 Every person who contravenes any regulation or order made under this Part is guilty of an offence punishable on summary conviction and is liable | 33 Every person who contravenes any regulation or order made under this Part is guilty of an offence punishable on summary conviction and is liable |
| 605 |  | (a) in the case of an individual, to a fine of not more than $25,000 for a first offence and of not more than $50,000 for each subsequent offence; or | (a) in the case of an individual, to a fine of not more than $25,000 for a first offence and of not more than $50,000 for each subsequent offence; or |
| 606 |  | (b) in the case of a corporation, to a fine of not more than $250,000 for a first offence and of not more than $500,000 for each subsequent offence. | (b) in the case of a corporation, to a fine of not more than $250,000 for a first offence and of not more than $500,000 for each subsequent offence. |
| 607 |  | **Defence** | Defence |
| 608 |  | 33.1 A person is not to be found guilty of an offence under section 32 or 33 if they establish that they exercised due diligence to prevent the commission of the offence. | 33.1 A person is not to be found guilty of an offence under section 32 or 33 if they establish that they exercised due diligence to prevent the commission of the offence. |
| 609 | **Marginal note: Limitation** |  |  |
| 610 | ~~34 Proceedings for an offence under subsection 32(2) or section 33, may be instituted within, but not after, two years after the time when the subject-matter of the proceedings arose.~~ | 34 Proceedings in respect of an offence under section 33 may be instituted within, but not after, two years after the day on which the subject matter of the proceedings arose. | 34 Proceedings in respect of an offence under section 33 may be instituted within, but not after, two years after the day on which the subject matter of the proceedings arose. |
| 610.1 |  | **Consultation and Review** |  |
| 611 |  | **Regulations and orders** |  |
| 612 |  | 34.01 (1) Every seven years the Commission **shall** consult with all interested persons with respect to orders made under section 9.1 and regulations and orders made under section 11.1 and **shall** publish, on the Internet or otherwise, a report on the consultations that also lists the orders and regulations that the Commission proposes to review as a result of the consultations and sets out its plan for conducting the review. | 34.01 (1) Every seven years the Commission **shall** consult with all interested persons with respect to orders made under section 9.1 and regulations and orders made under section 11.1 and **shall** publish, on the Internet or otherwise, a report on the consultations that also lists the orders and regulations that the Commission proposes to review as a result of the consultations and sets out its plan for conducting the review. |
| 613 |  | **Publication of report** |  |
| 614 |  | (2) The Commission **shall** publish the first report within seven years after the day on which this subsection comes into force and, subsequently, within seven years after the day on which the most recent report is published. | (2) The Commission **shall** publish the first report within seven years after the day on which this subsection comes into force and, subsequently, within seven years after the day on which the most recent report is published. |
| 615 |  |  | ***(3) THE MINISTER SHALL CAUSE A COPY OF ALL REPORTS PUBLISHED UNDER SUBSECTIONS (1) AND (2) TO BE TABLED BEFORE EACH HOUSE OF PARLIAMENT.*** |
| 616 | **PART II.1 *[Paper bills]*** |  |  |
| 618 | Offence  — Paper Bill |  |  |
| 619 | … |  |  |
| 620 | Marginal note: Offence |  |  |
| 621 | 34.2 Every person who contravenes section 34.1 is guilty of an offence punishable on summary conviction and is liable | 34.2 Every person who contravenes section 34.1 is guilty of an offence punishable on summary conviction and is liable | 34.2 Every person who contravenes section 34.1 is guilty of an offence punishable on summary conviction and is liable |
| 622 | (a) in the case of an individual, to a fine not exceeding $25,000 for a first offence and not exceeding $50,000 for each subsequent offence; or | (a) in the case of an individual, to a fine not exceeding $25,000 for a first offence and not exceeding $50,000 for each subsequent offence; or | (a) in the case of an individual, to a fine not exceeding $25,000 for a first offence and not exceeding $50,000 for each subsequent offence; or |
| 623 | (b) in the case of a corporation, to a fine not exceeding $250,000 for a first offence and not exceeding $500,000 for each subsequent offence. | (b) in the case of a corporation, to a fine not exceeding $250,000 for a first offence and not exceeding $500,000 for each subsequent offence. | (b) in the case of a corporation, to a fine not exceeding $250,000 for a first offence and not exceeding $500,000 for each subsequent offence. |
| 624 |  | **Defence** |  |
| 625 |  | 34.21 A person is not to be found guilty of an offence under section 34.2 if they establish that they exercised due diligence to prevent the commission of the offence. | 34.21 A person is not to be found guilty of an offence under section 34.2 if they establish that they exercised due diligence to prevent the commission of the offence. |
| 626 | … | … | … |
| 628 |  | **Part II.2** |  |
| 629 |  | **Administrative Monetary Penalties** |  |
| 630 |  | **Violations** |  |
| 631 |  | **34.4(1)** Subject to a regulation made under paragraph 34.995(a), a person commits a violation if they | **34.4(1)** Subject to a regulation made under paragraph 34.995(a), a person commits a violation if they |
| 632 |  | (a) contravene a regulation or order made under Part II; | (a) contravene a regulation or order made under Part II; |
| 633 |  | (b) contravene the requirement to negotiate in good faith under subsection 9.1(9); | (b) contravene the requirement to negotiate in good faith under subsection 9.1(9); |
| 634 |  | (c) carry on a broadcasting undertaking in contravention of section 31.1; | (c) carry on a broadcasting undertaking in contravention of section 31.1; |
| 635 |  | (d) charge a subscriber for providing the subscriber with a paper bill in contravention of section 34.1; | (d) charge a subscriber for providing the subscriber with a paper bill in contravention of section 34.1; |
| 636 |  | (e) contravene an undertaking that they entered into under section 34.9; | (e) contravene an undertaking that they entered into under section 34.9; |
| 637 |  | (f) fail to submit information in accordance with a notice issued under section 34.996 to a person designated under paragraph 34.7(a) that the designated person requires by the notice; | (f) fail to submit information in accordance with a notice issued under section 34.996 to a person designated under paragraph 34.7(a) that the designated person requires by the notice; |
| 638 |  | (g) knowingly make a material misrepresentation of fact in contravention of section 34.997; or | (g) knowingly make a material misrepresentation of fact in contravention of section 34.997; or |
| 639 |  | (h) contravene any of subsections 42(1) to (4) and (7), 43(1) to (3) and 44(1) to (3) and (6) of the Accessible Canada Act . | (h) contravene any of subsections 42(1) to (4) and (7), 43(1) to (3) and 44(1) to (3) and (6) of the *Accessible Canada Act* . |
| 640 |  | **Continued violation** |  |
| 641 |  | **(2)** A violation that is continued on more than one day constitutes a separate violation in respect of each day on which it is continued. | **(2)** A violation that is continued on more than one day constitutes a separate violation in respect of each day on which it is continued. |
| 642 |  | **Maximum administrative monetary penalty** |  |
| 643 |  | **34.5(1)** Subject to a regulation made under paragraph 34.995(b), a person who commits a violation is liable to an administrative monetary penalty | **34.5(1)** Subject to a regulation made under paragraph 34.995(b), a person who commits a violation is liable to an administrative monetary penalty |
| 644 |  | (a) in the case of an individual, of not more than $25,000 for a first violation and of not more than $50,000 for each subsequent violation; or | (a) in the case of an individual, of not more than $25,000 for a first violation and of not more than $50,000 for each subsequent violation; or |
| 645 |  | (b) in any other case, of not more than $10 million for a first violation and of not more than $15 million for each subsequent violation. | (b) in any other case, of not more than $10 million for a first violation and of not more than $15 million for each subsequent violation. |
| 646 |  | **Criteria for penalty** |  |
| 647 |  | (2) The amount of the penalty is to be determined by taking into account the following factors: | (2) The amount of the penalty is to be determined by taking into account the following factors: |
| 648 |  | (a) the nature and scope of the violation; | (a) the nature and scope of the violation; |
| 649 |  | (b) the history of compliance by the person who committed the violation with this Act, the regulations and the decisions and orders made by the Commission under this Act; | (b) the history of compliance by the person who committed the violation with this Act, the regulations and the decisions and orders made by the Commission under this Act; |
| 650 |  | (c) the person’s history with respect to any previous undertaking entered into under section 34.9; | (c) the person’s history with respect to any previous undertaking entered into under section 34.9; |
| 651 |  | (d) any benefit that the person obtained from the commission of the violation; | (d) any benefit that the person obtained from the commission of the violation; |
| 652 |  | (e) the person’s ability to pay the penalty; | (e) the person’s ability to pay the penalty; |
| 653 |  | (f) any factors established by regulation; | (f) any factors established by regulation; |
| 654 |  | (g) the purpose of the penalty, which is to promote compliance with this Act — or, in the case of a penalty imposed for a violation referred to in paragraph 34.4(1)(h), compliance with the Accessible Canada Act — and not to punish; and | (g) the purpose of the penalty, which is to promote compliance with this Act — or, in the case of a penalty imposed for a violation referred to in paragraph 34.4(1)(h), compliance with the *Accessible Canada Act* — and not to punish; and |
| 655 |  | (h) any other relevant factor. | (h) any other relevant factor. |
| 656 |  | **Purpose of penalty** |  |
| 657 |  | (3) The purpose of the penalty is to promote compliance with this Act — or, in the case of a penalty imposed for a violation referred to in paragraph 34.4(1)(g), compliance with the Accessible Canada Act — and not to punish. | (3) The purpose of the penalty is to promote compliance with this Act — or, in the case of a penalty imposed for a violation referred to in paragraph 34.4(1)(g), compliance with the *Accessible Canada Act* — and not to punish. |
| 658 |  | **Procedures** |  |
| 659 |  | **34.6(1)** Despite subsection 34.8(1), the Commission may impose a penalty in a decision made in the course of a proceeding before it under this Act in which it finds that a violation referred to in section 34.4 has been committed by a person other than the person who entered in to an undertaking under section 34.9 in connection with the same act or omission giving rise to the violation. | **34.6(1)** Despite subsection 34.8(1), the Commission may impose a penalty in a decision made in the course of a proceeding before it under this Act in which it finds that a violation referred to in section 34.4 has been committed by a person other than the person who entered in to an undertaking under section 34.9 in connection with the same act or omission giving rise to the violation. |
| 660 |  | **For greater certainty** |  |
| 661 |  | (2) For greater certainty, the Commission is not to impose a penalty under subsection (1) on a person who has not been given the opportunity to be heard. | (2) For greater certainty, the Commission is not to impose a penalty under subsection (1) on a person who has not been given the opportunity to be heard. |
| 662 |  | **Designation** |  |
| 663 |  | 34.7 The Commission may | 34.7 The Commission may |
| 664 |  | (a) designate persons or classes of persons who are authorized to issue notices of violation or to accept an undertaking under section 34.9; and | (a) designate persons or classes of persons who are authorized to issue notices of violation or to accept an undertaking under section 34.9; and |
| 665 |  | (b) establish, in respect of each violation, a short-form description to be used in notices of violation. | (b) establish, in respect of each violation, a short-form description to be used in notices of violation. |
| 666 |  | **Notice of violation** |  |
| 667 |  | 34.8(1)A person who is authorized to issue notices of violation may, if they believe on reasonable grounds that another person has committed a violation, issue a notice of violation and cause it to be served on that other person. | 34.8(1)A person who is authorized to issue notices of violation may, if they believe on reasonable grounds that another person has committed a violation, issue a notice of violation and cause it to be served on that other person. |
| 668 |  | **Contents** |  |
| 669 |  | (2) The notice of violation **shall** set out | (2) The notice of violation **shall** set out |
| 670 |  | (a) the name of the person who is believed to have committed a violation; | (a) the name of the person who is believed to have committed a violation; |
| 671 |  | (b) the act or omission giving rise to the violation, as well as a reference to the provision that is at issue; | (b) the act or omission giving rise to the violation, as well as a reference to the provision that is at issue; |
| 672 |  | (c) the administrative monetary penalty that the person is liable to pay, as well as the time and manner in which the person may pay the penalty; | (c) the administrative monetary penalty that the person is liable to pay, as well as the time and manner in which the person may pay the penalty; |
| 673 |  | (d) a statement informing the person that they may pay the penalty or make representations to the Commission with respect to the violation and the penalty and informing them of the time and manner for making such representations; and | (d) a statement informing the person that they may pay the penalty or make representations to the Commission with respect to the violation and the penalty and informing them of the time and manner for making such representations; and |
| 674 |  | (e) a statement informing the person that, if they do not pay the penalty or make representations in accordance with the notice, they will be deemed to have committed the violation and the penalty may be imposed. | (e) a statement informing the person that, if they do not pay the penalty or make representations in accordance with the notice, they will be deemed to have committed the violation and the penalty may be imposed. |
| 675 |  | **Undertaking** |  |
| 676 |  | 34.9(1)A person may enter into an undertaking at any time. The undertaking is valid upon its acceptance by the Commission or, if it is entered into by a person other than the Corporation, upon its acceptance by the Commission or the person designated to accept an undertaking. | 34.9(1)A person may enter into an undertaking at any time. The undertaking is valid upon its acceptance by the Commission or, if it is entered into by a person other than the Corporation, upon its acceptance by the Commission or the person designated to accept an undertaking. |
| 677 |  | **Requirements** |  |
| 678 |  | (2) An undertaking referred to in subsection (1) | (2) An undertaking referred to in subsection (1) |
| 679 |  | (a) **shall** set out every act or omission that is covered by the undertaking; | (a) **shall** set out every act or omission that is covered by the undertaking; |
| 680 |  | (b) **shall** set out every provision that is at issue; | (b) **shall** set out every provision that is at issue; |
| 681 |  | (c) may contain any conditions that the Commission or the person designated to accept the undertaking considers appropriate; and | (c) may contain any conditions that the Commission or the person designated to accept the undertaking considers appropriate; and |
| 682 |  | (d) may include a requirement to pay a specified amount. | (d) may include a requirement to pay a specified amount. |
| 683 |  | **Before notice of violation** |  |
| 684 |  | (3) If a person enters into an undertaking, a notice of violation **shall** not be served on them in connection with any act or omission referred to in the undertaking. | (3) If a person enters into an undertaking, a notice of violation **shall** not be served on them in connection with any act or omission referred to in the undertaking. |
| 685 |  | **After notice of violation** |  |
| 686 |  | (4) If a person enters into an undertaking after a notice of violation is served on them, the proceeding that is commenced by the notice of violation is ended in respect of that person in connection with any act or omission referred to in the undertaking. | (4) If a person enters into an undertaking after a notice of violation is served on them, the proceeding that is commenced by the notice of violation is ended in respect of that person in connection with any act or omission referred to in the undertaking. |
| 687 |  | **Powers respecting hearings** |  |
| 688 |  | 34.91 For greater certainty, the Commission has all the powers, rights and privileges referred to in section 16 if, in a proceeding in respect of a violation, it holds a public hearing under subsection 18(3). | 34.91 For greater certainty, the Commission has all the powers, rights and privileges referred to in section 16 if, in a proceeding in respect of a violation, it holds a public hearing under subsection 18(3). |
| 689 |  | **Payment of penalty** |  |
| 690 |  | **34.92(1)** If a person who is served with a notice of violation pays the penalty set out in the notice, they are deemed to have committed the violation and the proceedings in respect of it are ended. | **34.92(1)** If a person who is served with a notice of violation pays the penalty set out in the notice, they are deemed to have committed the violation and the proceedings in respect of it are ended. |
| 691 |  | 34.92(1.1) The Commission **shall**, in a timely manner, issue a decision with respect to subsection (1) confirming that the person is deemed to have committed the violation | 34.92(1.1) The Commission **shall**, in a timely manner, issue a decision with respect to subsection (1) confirming that the person is deemed to have committed the violation |
| 692 |  | **Representations to Commission and decision** |  |
| 693 |  | (2) If a person who is served with a notice of violation makes representations in accordance with the notice, the Commission **shall** decide, on a balance of probabilities, after considering any other representations that it considers appropriate, whether the person committed the violation. If the Commission decides that the person committed the violation, it may | (2) If a person who is served with a notice of violation makes representations in accordance with the notice, the Commission **shall** decide, on a balance of probabilities, after considering any other representations that it considers appropriate, whether the person committed the violation. If the Commission decides that the person committed the violation, it may |
| 694 |  | (a) impose the administrative monetary penalty set out in the notice, a lesser penalty or no penalty; and | (a) impose the administrative monetary penalty set out in the notice, a lesser penalty or no penalty; and |
| 695 |  | (b) suspend payment of the administrative monetary penalty subject to any conditions that the Commission considers necessary to ensure compliance with this Act. | (b) suspend payment of the administrative monetary penalty subject to any conditions that the Commission considers necessary to ensure compliance with this Act. |
| 696 |  | **Penalty** |  |
| 697 |  | (3) If a person who is served with a notice of violation neither pays the penalty nor makes representations in accordance with the notice, the person is deemed to have committed the violation and the Commission may impose the penalty. | (3) If a person who is served with a notice of violation neither pays the penalty nor makes representations in accordance with the notice, the person is deemed to have committed the violation and the Commission may impose the penalty. |
| 698 |  | **Copy of decision and notice of rights** |  |
| 699 |  | (4) The Commission **shall** cause a copy of any decision made under subsection (1.1), (2) or (3) to be issued and served on the person together with a notice of the person’s right to apply for leave to appeal under section 31. | (4) The Commission **shall** cause a copy of any decision made under subsection (1.1), (2) or (3) to be issued and served on the person together with a notice of the person’s right to apply for leave to appeal under section 31. |
| 700 |  | **Evidence** |  |
| 701 |  | 34.93 In a proceeding in respect of a violation, a notice purporting to be served under subsection 34.8(1) or a copy of a decision purporting to be served under subsection 34.92(4) is admissible in evidence without proof of the signature or official character of the person appearing to have signed it. | 34.93 In a proceeding in respect of a violation, a notice purporting to be served under subsection 34.8(1) or a copy of a decision purporting to be served under subsection 34.92(4) is admissible in evidence without proof of the signature or official character of the person appearing to have signed it. |
| 702 |  | **Defence** |  |
| 703 |  | 34.94(1) A person is not to be found liable for a violation, other than a violation under paragraph 34.4(1)(f), if they establish that they exercised due diligence to prevent its commission. | 34.94(1) A person is not to be found liable for a violation, other than a violation under paragraph 34.4(1)(f), if they establish that they exercised due diligence to prevent its commission. |
| 704 |  | **Common law principles** |  |
| 705 |  | (2) Every rule and principle of the common law that makes any circumstance a justification or excuse in relation to a charge for an offence applies in respect of a violation to the extent that it is not inconsistent with this Act | (2) Every rule and principle of the common law that makes any circumstance a justification or excuse in relation to a charge for an offence applies in respect of a violation to the extent that it is not inconsistent with this Act |
| 706 |  | **Directors, officers, etc., of corporations** |  |
| 707 |  | 34.95 An officer, director or agent or mandatary of a corporation other than the Canadian Broadcasting Corporation, that commits a violation is liable for the violation if they directed, authorized, assented to, acquiesced in or participated in the commission of the violation, whether or not the corporation is proceeded against. | 34.95 An officer, director or agent or mandatary of a corporation other than the Canadian Broadcasting Corporation, that commits a violation is liable for the violation if they directed, authorized, assented to, acquiesced in or participated in the commission of the violation, whether or not the corporation is proceeded against. |
| 708 |  | **Vicarious liability** |  |
| 709 |  | 34.96 A person, other than the Corporation, is liable for a violation that is committed by their employee acting within the scope of their employment or their agent or mandatary acting within the scope of their authority, whether or not the employee or agent or mandatary is identified or proceeded against. | 34.96 A person, other than the Corporation, is liable for a violation that is committed by their employee acting within the scope of their employment or their agent or mandatary acting within the scope of their authority, whether or not the employee or agent or mandatary is identified or proceeded against. |
| 710 |  | **Limitation or prescription period** |  |
| 711 |  | **34.97(1)** Proceedings in respect of a violation may be instituted within, but not after, three years after the day on which the subject matter of the proceedings became known to the Commission. | **34.97(1)** Proceedings in respect of a violation may be instituted within, but not after, three years after the day on which the subject matter of the proceedings became known to the Commission. |
| 712 |  | **Certificate** |  |
| 713 |  | **(2)** A document that appears to have been issued by the secretary to the Commission, certifying the day on which the subject matter of any proceedings became known to the Commission, is admissible in evidence without proof of the signature or official character of the person who appears to have signed the document and is, in the absence of evidence to the contrary, proof of the matter asserted in it. | **(2)** A document that appears to have been issued by the secretary to the Commission, certifying the day on which the subject matter of any proceedings became known to the Commission, is admissible in evidence without proof of the signature or official character of the person who appears to have signed the document and is, in the absence of evidence to the contrary, proof of the matter asserted in it. |
| 714 |  | **Information may be made public** |  |
| 715 |  | 34.98 The Commission may make public | 34.98 The Commission may make public |
| 716 |  | (a) the name of a person who enters into an undertaking under section 34.9, the nature of the undertaking including the acts or omissions and provisions at issue, the conditions included in the undertaking and the amount payable under it, if any; or | (a) the name of a person who enters into an undertaking under section 34.9, the nature of the undertaking including the acts or omissions and provisions at issue, the conditions included in the undertaking and the amount payable under it, if any; or |
| 717 |  | (b) the name of a person who is deemed, or is found by the Commission or on appeal, to have committed a violation, the acts or omissions and provisions at issue and the amount of the penalty imposed, if any. | (b) the name of a person who is deemed, or is found by the Commission or on appeal, to have committed a violation, the acts or omissions and provisions at issue and the amount of the penalty imposed, if any. |
| 718 |  | **Special case concerning the Corporation — public hearing** |  |
| 719 |  | 34.99(1) Despite subsections 34.6(1) and 34.92(2) and (3), the Commission **shall** not impose a penalty under any of those subsections on the Corporation for a violation other than the one referred to in paragraph 34.4(1)(h) without holding a public hearing on the matter. | 34.99(1) Despite subsections 34.6(1) and 34.92(2) and (3), the Commission **shall** not impose a penalty under any of those subsections on the Corporation for a violation other than the one referred to in paragraph 34.4(1)(h) without holding a public hearing on the matter. |
| 720 |  | **Place of hearing** |  |
| 721 |  | (2) A public hearing under subsection (1) may be held at any place in Canada designated by the Chairperson of the Commission. | (2) A public hearing under subsection (1) may be held at any place in Canada designated by the Chairperson of the Commission. |
| 722 |  | **Notice of hearing** |  |
| 723 |  | (3) The Commission **shall** cause notice of any public hearing to be held by it under subsection (1) to be published in the Canada Gazette and in one or more newspapers of general circulation within any area affected or likely to be affected by the matter to which the public hearing relates. | (3) The Commission **shall** cause notice of any public hearing to be held by it under subsection (1) to be published in the Canada Gazette and in one or more newspapers of general circulation within any area affected or likely to be affected by the matter to which the public hearing relates. |
| 724 |  | **Powers respecting hearings** |  |
| 725 |  | (4) The Commission has, in respect of any hearing under subsection (1), with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents and other matters necessary or proper in relation to the hearing, all of the powers, rights and privileges that are vested in a superior court of record. | (4) The Commission has, in respect of any hearing under subsection (1), with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents and other matters necessary or proper in relation to the hearing, all of the powers, rights and privileges that are vested in a superior court of record. |
| 726 |  | **For greater certainty** |  |
| 727 |  | (5) For greater certainty, sections 17, 20 and 21 apply in respect of public hearings under subsection (1). | (5) For greater certainty, sections 17, 20 and 21 apply in respect of public hearings under subsection (1). |
| 728 |  | **Report of violation** |  |
| 729 |  | 34.991 (1) If the Commission is satisfied, after holding a public hearing on the matter, that the Corporation has committed a violation referred to in any of paragraphs 34.4(1)(a) to (g), the Commission **shall** forward to the Minister a report setting out the circumstances of the violation, the findings of the Commission, the amount of any penalty imposed, and any observations or recommendations of the Commission in connection with the violation. | 34.991 (1) If the Commission is satisfied, after holding a public hearing on the matter, that the Corporation has committed a violation referred to in any of paragraphs 34.4(1)(a) to (g), the Commission **shall** forward to the Minister a report setting out the circumstances of the violation, the findings of the Commission, the amount of any penalty imposed, and any observations or recommendations of the Commission in connection with the violation. |
| 730 |  | **Report to be tabled** |  |
| 731 |  | **(2)** The Minister **shall** cause a copy of the report referred to in subsection (1) to be laid before each House of Parliament on any of the first 15 days on which that House is sitting after the report is received by the Minister. | **(2)** The Minister **shall** cause a copy of the report referred to in subsection (1) to be laid before each House of Parliament on any of the first 15 days on which that House is sitting after the report is received by the Minister. |
| 733 |  | **Violation or offence** |  |
| 734 |  | 34.992 (1)If an act or omission can be proceeded with either as a violation or as an offence under this Act, proceeding in one manner precludes proceeding in the other | 34.992 (1)If an act or omission can be proceeded with either as a violation or as an offence under this Act, proceeding in one manner precludes proceeding in the other |
| 735 |  | **For greater certainty** |  |
| 736 |  | **(2)** For greater certainty, a violation is not an offence and, accordingly, section 126 of the Criminal Code does not apply. | **(2)** For greater certainty, a violation is not an offence and, accordingly, section 126 of the *Criminal Code* does not apply. |
| 737 |  | **Receiver General** |  |
| 738 |  | 34.993An administrative monetary penalty paid or recovered in relation to a violation is payable to the Receiver General | 34.993An administrative monetary penalty paid or recovered in relation to a violation is payable to the Receiver General |
| 739 |  | **Debt due to Her Majesty** |  |
| 740 |  | 34.994 **(1)** The following amounts are debts due to Her Majesty in right of Canada that may be recovered in the Federal Court: | 34.994 **(1)** The following amounts are debts due to Her Majesty in right of Canada that may be recovered in the Federal Court: |
| 741 |  | (a) the amount of the penalty imposed by the Commission in a decision made in the course of a proceeding before it under this Act in which it finds that a violation referred to in section 34.4 has been committed; | (a) the amount of the penalty imposed by the Commission in a decision made in the course of a proceeding before it under this Act in which it finds that a violation referred to in section 34.4 has been committed; |
| 742 |  | (b) the amount payable under an undertaking entered into under section 34.9, beginning on the day specified in the undertaking or, if no day is specified, beginning on the day on which the undertaking is accepted; | (b) the amount payable under an undertaking entered into under section 34.9, beginning on the day specified in the undertaking or, if no day is specified, beginning on the day on which the undertaking is accepted; |
| 743 |  | (c) the amount of the penalty set out in a notice of violation, beginning on the day on which it is required to be paid in accordance with the notice, unless representations are made in accordance with the notice; | (c) the amount of the penalty set out in a notice of violation, beginning on the day on which it is required to be paid in accordance with the notice, unless representations are made in accordance with the notice; |
| 744 |  | (d) if representations are made, either the amount of the administrative monetary penalty that is imposed by the Commission or on appeal, as the case may be, beginning on the day specified by the Commission or the court or, if no day is specified, beginning on the day on which the decision is made; and | (d) if representations are made, either the amount of the administrative monetary penalty that is imposed by the Commission or on appeal, as the case may be, beginning on the day specified by the Commission or the court or, if no day is specified, beginning on the day on which the decision is made; and |
| 745 |  | (e) the amount of any reasonable expenses incurred in attempting to recover an amount referred to in any of paragraphs (a) to (d). | (e) the amount of any reasonable expenses incurred in attempting to recover an amount referred to in any of paragraphs (a) to (d). |
| 746 |  | **Limitation period or prescription** |  |
| 747 |  | (2) Proceedings to recover a debt may be instituted within, but not after, three years after the day on which the debt becomes payable. | (2) Proceedings to recover a debt may be instituted within, but not after, three years after the day on which the debt becomes payable. |
| 748 |  | **Certificate of default** |  |
| 749 |  | (3) The Commission may issue a certificate for the un- paid amount of any debt referred to in subsection (1). | (3) The Commission may issue a certificate for the un- paid amount of any debt referred to in subsection (1). |
| 750 |  | **Effect of registration** |  |
| 751 |  | (4) Registration of a certificate in the Federal Court has the same effect as a judgment of that Court for a debt of the amount set out in the certificate and all related registration costs. | (4) Registration of a certificate in the Federal Court has the same effect as a judgment of that Court for a debt of the amount set out in the certificate and all related registration costs. |
| 752 |  | **Regulations** |  |
| 753 |  | 34.995 The Governor in Council may make regulations | 34.995 The Governor in Council may make regulations |
| 754 |  | (a) providing for exceptions to any of paragraphs 34.4(1)(a) to (h); | (a) providing for exceptions to any of paragraphs 34.4(1)(a) to (h); |
| 755 |  | (b) increasing the maximum administrative monetary penalty amounts set out in subsection 34.5(1); | (b) increasing the maximum administrative monetary penalty amounts set out in subsection 34.5(1); |
| 756 |  | (c) for the purpose of paragraph 34.5(2)(f), establishing other factors to be considered in determining the amount of the penalty; | (c) for the purpose of paragraph 34.5(2)(f), establishing other factors to be considered in determining the amount of the penalty; |
| 757 |  | (d) respecting undertakings referred to in section 34.9; | (d) respecting undertakings referred to in section 34.9; |
| 758 |  | (e) respecting the service of documents required or authorized to be served under this Part, including the manner and proof of service and the circumstances under which documents are to be considered to be served; and | (e) respecting the service of documents required or authorized to be served under this Part, including the manner and proof of service and the circumstances under which documents are to be considered to be served; and |
| 759 |  | (f) generally, for carrying out the purposes and provisions of this Part. | (f) generally, for carrying out the purposes and provisions of this Part. |
| 760 |  | **Part II.3** |  |
| 761 |  | **Submission of Information** |  |
| 762 |  | **Information requirement** |  |
| 763 |  | 34.996 A person designated under paragraph 34.7(a) who believes that a person is in possession of information that is reasonably considered to be relevant for the purpose of verifying whether a violation referred to in section 34.4 has been committed may, by notice, require that person to submit the information to the designated person in the form and manner and within the reasonable time that is stipulated in the notice. A person to whom any such notice is addressed **shall** comply with the notice. | 34.996 A person designated under paragraph 34.7(a) who believes that a person is in possession of information that is reasonably considered to be relevant for the purpose of verifying whether a violation referred to in section 34.4 has been committed may, by notice, require that person to submit the information to the designated person in the form and manner and within the reasonable time that is stipulated in the notice. A person to whom any such notice is addressed **shall** comply with the notice. |
| 765 |  | **PART II.4** |  |
| 766 |  | Offence — Material |  |
| 767 |  | Misrepresentation of Fact |  |
| 768 |  | **Prohibition** |  |
| 769 |  | 34.997 It is prohibited for any person to knowingly make a material misrepresentation of fact to a person designated under paragraph 34.7(a). | 34.997 It is prohibited for any person to knowingly make a material misrepresentation of fact to a person designated under paragraph 34.7(a). |
| 770 |  | **Offence** |  |
| 771 |  | 34.998 (1) Every person who contravenes section 34.997 is guilty of an offence punishable on summary conviction and is liable | 34.998 (1) Every person who contravenes section 34.997 is guilty of an offence punishable on summary conviction and is liable |
| 772 |  | (a) in the case of an individual, to a fine of not more than $10,000 for a first offence or and of not more than $25,000 for each subsequent offence; or | (a) in the case of an individual, to a fine of not more than $10,000 for a first offence or and of not more than $25,000 for each subsequent offence; or |
| 773 |  | (b) in any other case, to a fine of not more than $100,000 for a first offence and of not more than $250,000 for each subsequent offence. | (b) in any other case, to a fine of not more than $100,000 for a first offence and of not more than $250,000 for each subsequent offence. |
| 774 |  | **Limitation** |  |
| 775 |  | (2) Proceedings in respect of an offence under subsection (1) may be instituted within, but not after, two years after the day on which the subject matter of the proceedings arose. | (2) Proceedings in respect of an offence under subsection (1) may be instituted within, but not after, two years after the day on which the subject matter of the proceedings arose. |
| 776 | **PART III *[CBC]*** |  |  |
| 777 | **Canadian Broadcasting Corporation** |  |  |
| 778 | **Interpretation** |  |  |
| 780 | **Marginal note: Definitions** |  |  |
| 781 | 35 (1) In this Part, | 35 (1) In this Part, | 35 (1) In this Part, |
| 782 | auditor means the auditor of the Corporation; (vérificateur) | auditor means the auditor of the Corporation; (vérificateur) | auditor means the auditor of the Corporation; (vérificateur) |
| 783 | Board means the Board of Directors of the Corporation; (conseil d’administration) | Board means the Board of Directors of the Corporation; (conseil d’administration) | Board means the Board of Directors of the Corporation; (conseil d’administration) |
| 784 | Chairperson means the Chairperson of the Board; (président du conseil) | Chairperson means the Chairperson of the Board; (président du conseil) | Chairperson means the Chairperson of the Board; (président du conseil) |
| 785 | director means a director of the Corporation; (administrateur) | director means a director of the Corporation; (administrateur) | director means a director of the Corporation; (administrateur) |
| 786 | President means the President of the Corporation; (président-directeur général) | President means the President of the Corporation; (président-directeur général) | President means the President of the Corporation; (président-directeur général) |
| 787 | wholly-owned subsidiary has the same meaning as in Part X of the Financial Administration Act. (filiale à cent pour cent) | wholly-owned subsidiary has the same meaning as in Part X of the Financial Administration Act. (filiale à cent pour cent) | wholly-owned subsidiary has the same meaning as in Part X of the Financial Administration Act. (filiale à cent pour cent) |
| 788 | **Marginal note: Interpretation** |  |  |
| 789 | (2) This Part **shall** be interpreted and applied so as to protect and enhance the freedom of expression and the journalistic, creative and programming independence enjoyed by the Corporation in the pursuit of its objects and in the exercise of its powers. | (2) This Part **shall** be interpreted and applied so as to protect and enhance the freedom of expression and the journalistic, creative and programming independence enjoyed by the Corporation in the pursuit of its objects and in the exercise of its powers. | (2) This Part **shall** be interpreted and applied so as to protect and enhance the freedom of expression and the journalistic, creative and programming independence enjoyed by the Corporation in the pursuit of its objects and in the exercise of its powers. |
| 791 | **Continuation of Corporation** |  |  |
| 792 | **Marginal note: Corporation continued** |  |  |
| 793 | 36 (1) The corporation known as the Canadian Broadcasting Corporation is hereby continued and **shall** consist of those directors who from time to time compose the Board. | 36 (1) The corporation known as the Canadian Broadcasting Corporation is hereby continued and **shall** consist of those directors who from time to time compose the Board. | 36 (1) The corporation known as the Canadian Broadcasting Corporation is hereby continued and **shall** consist of those directors who from time to time compose the Board. |
| 794 | **Marginal note: Board of Directors** |  |  |
| 795 | (2) There **shall** be a Board of Directors of the Corporation consisting of twelve directors, including the Chairperson and the President, to be appointed by the Governor in Council. | (2) There **shall** be a Board of Directors of the Corporation consisting of twelve directors, including the Chairperson and the President, to be appointed by the Governor in Council. | (2) There **shall** be a Board of Directors of the Corporation consisting of twelve directors, including the Chairperson and the President, to be appointed by the Governor in Council. |
| 796 | … | … | … |
| 798 | **Marginal note: Outside interests of directors** |  |  |
| 799 | 38 (1) A person is not eligible to be appointed or to continue as a director if the person is not a Canadian citizen who is ordinarily resident in Canada or if, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, the person | 38 (1) A person is not eligible to be appointed or to continue as a director if the person is not a Canadian citizen who is ordinarily resident in Canada or if, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, the person | 38 (1) A person is not eligible to be appointed or to continue as a director if the person is not a Canadian citizen who is ordinarily resident in Canada or if, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, the person |
| 800 | ~~(a) is engaged in the operation of a broadcasting undertaking;~~ | (a) is engaged in the operation of a broadcasting undertaking described in subsection (3); | (a) is engaged in the operation of a broadcasting undertaking described in subsection (3); |
| 801 | ~~(b) has any pecuniary or proprietary interest in a broadcasting undertaking; or~~ | (b) has any pecuniary or proprietary interest in such a broadcasting undertaking; or | (b) has any pecuniary or proprietary interest in such a broadcasting undertaking; or |
| 802 | ~~(c) is principally engaged in the production or distribution of program material that is primarily intended for use by a broadcasting undertaking.~~ | (c) is principally engaged in the production or distribution of program material that is primarily intended for use by such a broadcasting undertaking. | (c) is principally engaged in the production or distribution of program material that is primarily intended for use by such a broadcasting undertaking. |
| 803 | **Marginal note: Disposing of interest** |  |  |
| 804 | (2) A director in whom any interest prohibited by subsection (1) vests by will or succession for the director’s own benefit **shall**, within three months thereafter, absolutely dispose of that interest. | (2) A director in whom any interest prohibited by subsection (1) vests by will or succession for the director’s own benefit **shall**, within three months thereafter, absolutely dispose of that interest. | (2) A director in whom any interest prohibited by subsection (1) vests by will or succession for the director’s own benefit **shall**, within three months thereafter, absolutely dispose of that interest. |
| 805 |  | **Application** | **Application** |
| 807 |  | (3) Subsection (1) applies with respect to a broadcasting undertaking that | (3) Subsection (1) applies with respect to a broadcasting undertaking that |
| 808 |  | (a) must be carried on under a licence; | (a) must be carried on under a licence; |
| 809 |  | (b) is carried on by a person who is exempt from the requirement to hold a licence, under an order made under subsection 9(4); or | (b) is carried on by a person who is exempt from the requirement to hold a licence, under an order made under subsection 9(4); or |
| 810 |  | (c) must be registered with the Commission under regulations made under paragraph 10(1)(i). | (c) must be registered with the Commission under regulations made under paragraph 10(1)(i). |
| 811 | … | … | … |
| 813 | **Objects and Powers** |  |  |
| 814 | **Marginal note: Objects and powers** |  |  |
| 815 | ~~46 (1) The Corporation is established for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m), in accordance with the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, and for that purpose the Corporation may~~ | 46 (1) The Corporation is established for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m), subject to any applicable orders and regulations of the Commission, and for that purpose the Corporation may | 46 (1) The Corporation is established for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m), subject to any applicable orders and regulations of the Commission, and for that purpose the Corporation may |
| 816 | (a) establish, equip, maintain and operate broadcasting undertakings; | (a) establish, equip, maintain and operate broadcasting undertakings; | (a) establish, equip, maintain and operate broadcasting undertakings; |
| 817 | ~~(b) make operating agreements with licensees for the broadcasting of programs;~~ | (b) make agreements with persons carrying on broadcasting undertakings for the broadcasting of programs; | (b) make agreements with persons carrying on broadcasting undertakings for the broadcasting of programs; |
| 818 | … | … | … |
| 819 |  |  | ***(1.1) DESPITE SUBSECTION (1), THE CORPORATION MAY NOT ENTER INTO ANY CONTRACT, ARRANGEMENT OR AGREEMENT THAT RESULTS IN THE BROADCASTING OR DEVELOPMENT OF AN ADVERTISEMENT OR ANNOUNCEMENT ON BEHALF OF AN ADVERTISER THAT IS DESIGNED TO RESEMBLE JOURNALISTIC PROGRAMMING.*** |
| 820 | **Marginal note: International service** |  |  |
| 821 | ~~(2) The Corporation~~ **~~shall~~**~~, within the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, provide an international service in accordance with such directions as the Governor in Council may issue.~~ | (2) The Corporation **shall**, subject to any applicable orders and regulations of the Commission, provide an international service that includes the creation, production and presentation of programming intended for audiences outside of Canada and provided in English, French and any other language deemed appropriate, in accordance with any directions that the Governor in Council may issue. | (2) The Corporation **shall**, subject to any applicable orders and regulations of the Commission, provide an international service that includes the creation, production and presentation of programming intended for audiences outside of Canada and provided in English, French and any other language deemed appropriate, in accordance with any directions that the Governor in Council may issue. |
| 823 | **Marginal note: Power to act as agent** |  |  |
| 824 | ~~(3) The Corporation may, within the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, act as an agent of Her Majesty in right of Canada or a province in respect of any broadcasting operations that it may be directed by the Governor in Council to carry out.~~ | (3) The Corporation may, subject to any applicable orders and regulations of the Commission, act as an agent of Her Majesty in right of Canada, or as an agent or mandatary of Her Majesty in right of a province, in respect of any broadcasting operations that it may be directed by the Governor in Council to carry out. | (3) The Corporation may, subject to any applicable orders and regulations of the Commission, act as an agent of Her Majesty in right of Canada, or as an agent or mandatary of Her Majesty in right of a province, in respect of any broadcasting operations that it may be directed by the Governor in Council to carry out. |
| 825 | … | … | … |
| 826 | ***STATUS OF THE ARTIST ACT*** |  |  |
| 827 | 6 (1) This Part is binding on Her Majesty in right of Canada. | 6 (1) This Part is binding on Her Majesty in right of Canada. | 6 (1) This Part is binding on Her Majesty in right of Canada. |
| 828 | **Marginal note: Application** |  |  |
| 829 | (2) This Part applies | (2) This Part applies | (2) This Part applies |
| 830 | (a) to the following organizations that engage one or more artists to provide an artistic production, namely, | (a) to the following organizations that engage one or more artists to provide an artistic production, namely, | (a) to the following organizations that engage one or more artists to provide an artistic production, namely, |
| 831 | (i) government institutions listed in Schedule I to the Access to Information Act or the schedule to the Privacy Act, or prescribed by regulation, and | (i) government institutions listed in Schedule I to the Access to Information Act or the schedule to the Privacy Act, or prescribed by regulation, and | (i) government institutions listed in Schedule I to the Access to Information Act or the schedule to the Privacy Act, or prescribed by regulation, and |
| 832 | (ii) broadcasting undertakings, including a distribution or programming undertaking, under the jurisdiction of the Canadian Radio-television and Telecommunications Commission; and | (ii) broadcasting undertakings, including a distribution or programming undertaking, under the jurisdiction of the Canadian Radio-television and Telecommunications Commission; and | (ii) ***BROADCASTING UNDERTAKINGS, REGULATED UNDER THE BROADCASTING ACT, THAT ARE FEDERAL WORKS, UNDERTAKINGS OR BUSINESSES, AS DEFINED IN SECTION 2 OF THE CANADA LABOUR CODE, OR THAT ARE CORPORATIONS ESTABLISHED TO PERFORM ANY FUNCTION OR DUTY ON BEHALF OF THE GOVERNMENT OF CANADA*** |
| 833 | (b) to independent contractors determined to be professionals according to the criteria set out in paragraph 18(b), and who | (b) to independent contractors determined to be professionals according to the criteria set out in paragraph 18(b), and who | (b) to independent contractors determined to be professionals according to the criteria set out in paragraph 18(b), and who |
| 834 | (i) are authors of artistic, dramatic, literary or musical works within the meaning of the Copyright Act, or directors responsible for the overall direction of audiovisual works, | (i) are authors of artistic, dramatic, literary or musical works within the meaning of the Copyright Act, or directors responsible for the overall direction of audiovisual works, | (i) are authors of artistic, dramatic, literary or musical works within the meaning of the Copyright Act, or directors responsible for the overall direction of audiovisual works, |
| 835 | (ii) perform, sing, recite, direct or act, in any manner, in a musical, literary or dramatic work, or in a circus, variety, mime or puppet show, or | (ii) perform, sing, recite, direct or act, in any manner, in a musical, literary or dramatic work, or in a circus, variety, mime or puppet show, or | (ii) perform, sing, recite, direct or act, in any manner, in a musical, literary or dramatic work, or in a circus, variety, mime or puppet show, or |
| 836 | (iii) contribute to the creation of any production in the performing arts, music, dance and variety entertainment, film, radio and television, video, sound-recording, dubbing or the recording of commercials, arts and crafts, or visual arts, and fall within a professional category prescribed by regulation. | (iii) contribute to the creation of any production in the performing arts, music, dance and variety entertainment, film, radio and television, video, sound-recording, dubbing or the recording of commercials, arts and crafts, or visual arts, and fall within a professional category prescribed by regulation. | (iii) contribute to the creation of any production in the performing arts, music, dance and variety entertainment, film, radio and television, video, sound-recording, dubbing or the recording of commercials, arts and crafts, or visual arts, and fall within a professional category prescribed by regulation. |
| 837 |  | (3) This Part does not apply in respect of an online undertaking, as defined in subsection 2(1) of the Broadcasting Act | (3) This Part does not apply in respect of an online undertaking, as defined in subsection 2(1) of the Broadcasting Act |
| 838 | *Canadian Radio-television and Telecommunications Commission Act* | | |
| 839 | **Annual report** |  |  |
| 840 | 13 (1) The Commission **shall**, within three months after the end of each fiscal year, submit to the Minister a report, in such form as the Minister may direct, on the activities of the Commission for that fiscal year, and the Minister **shall** cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives it. | 13 (1) The Commission **shall**, within three months after the end of each fiscal year, submit to the Minister a report, in such form as the Minister may direct, on the activities of the Commission for that fiscal year, and the Minister **shall** cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives it. | 13 (1) The Commission **shall**, within three months after the end of each fiscal year, submit to the Minister a report, in such form as the Minister may direct, on the activities of the Commission for that fiscal year, and the Minister **shall** cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives it. |
| 841 | (2) The report must include information about the following in respect of the fiscal year, including their number: | (2) The report must include information about the following in respect of the fiscal year, including their number: | (2) The report must include information about the following in respect of the fiscal year, including their number: |
| 842 | (a) inquiries conducted under subsection 12(1) of the Broadcasting Act in relation to the identification, prevention and removal of barriers; | (a) inquiries conducted under subsection 12(1) of the Broadcasting Act in relation to the identification, prevention and removal of barriers; | (a) inquiries conducted under subsection 12(1) of the Broadcasting Act in relation to the identification, prevention and removal of barriers; |
| 843 | (b) inquiries conducted under that subsection in relation to sections 42 to 44 of the Accessible Canada Act; | (b) inquiries conducted under that subsection in relation to sections 42 to 44 of the Accessible Canada Act; | (b) inquiries conducted under that subsection in relation to sections 42 to 44 of the Accessible Canada Act; |
| 844 | (c) orders made under subsection 12(2) of the Broadcasting Act in relation to the identification, prevention and removal of barriers; **~~and~~** | (c) orders made under subsection 12(2) of the Broadcasting Act in relation to the identification, prevention and removal of barriers; | (c) orders made under subsection 12(2) of the Broadcasting Act in relation to the identification, prevention and removal of barriers; |
| 845 | (d) orders made under that subsection in relation to sections 42 to 44 of the Accessible Canada Act. | (d) orders made under that subsection in relation to sections 42 to 44 of the Accessible Canada Act. | (d) orders made under that subsection in relation to sections 42 to 44 of the Accessible Canada Act. |
| 846 |  | (e) notices of violation issued under section 34.8 of the Broadcasting Act in relation to contraventions of a regulation or order made under Part II of that Act in relation to the identification, prevention and removal of barriers; **and** | (e) notices of violation issued under section 34.8 of the Broadcasting Act in relation to contraventions of a regulation or order made under Part II of that Act in relation to the identification, prevention and removal of barriers; and |
| 847 | **CASL: *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act*** | | |
| 848 |  | 6(7.1) This section does not apply to a commercial electronic message that is sent or caused or permitted to be sent by an online undertaking, as defined in subsection 2(1) of the Broadcasting Act, if | 6(7.1) This section does not apply to a commercial electronic message that is sent or caused or permitted to be sent by an online undertaking, as defined in subsection 2(1) of the Broadcasting Act, if |
| 849 |  | (a) the person to whom the message is sent has expressly or implicitly consented to the transmission of a program, as defined in that subsection, from that online undertaking to an electronic address; and | (a) the person to whom the message is sent has expressly or implicitly consented to the transmission of a program, as defined in that subsection, from that online undertaking to an electronic address; and |
| 850 |  | (b) the message is or forms part of that program or is sent in the course of the transmission of that program to the electronic address to which that program is transmitted. | (b) the message is or forms part of that program or is sent in the course of the transmission of that program to the electronic address to which that program is transmitted. |
| 851 | **Implied consent — section 6** |  |  |
| 852 | (9) Consent is implied for the purpose of section 6 only if | (9) For the purpose of section 6, except subsection 6(7.‍1), consent is implied only if | (9) For the purpose of section 6, except subsection 6(7.1), consent is implied only if |
| 853 | (a) the person who sends the message, the person who causes it to be sent or the person who permits it to be sent has an existing business relationship or an existing non-business relationship with the person to whom it is sent; | (a) the person who sends the message, the person who causes it to be sent or the person who permits it to be sent has an existing business relationship or an existing non-business relationship with the person to whom it is sent; | (a) the person who sends the message, the person who causes it to be sent or the person who permits it to be sent has an existing business relationship or an existing non-business relationship with the person to whom it is sent; |
| 854 | (b) the person to whom the message is sent has conspicuously published, or has caused to be conspicuously published, the electronic address to which the message is sent, the publication is not accompanied by a statement that the person does not wish to receive unsolicited commercial electronic messages at the electronic address and the message is relevant to the person’s business, role, functions or duties in a business or official capacity; | (b) the person to whom the message is sent has conspicuously published, or has caused to be conspicuously published, the electronic address to which the message is sent, the publication is not accompanied by a statement that the person does not wish to receive unsolicited commercial electronic messages at the electronic address and the message is relevant to the person’s business, role, functions or duties in a business or official capacity; | (b) the person to whom the message is sent has conspicuously published, or has caused to be conspicuously published, the electronic address to which the message is sent, the publication is not accompanied by a statement that the person does not wish to receive unsolicited commercial electronic messages at the electronic address and the message is relevant to the person’s business, role, functions or duties in a business or official capacity; |
| 855 | (c) the person to whom the message is sent has disclosed, to the person who sends the message, the person who causes it to be sent or the person who permits it to be sent, the electronic address to which the message is sent without indicating a wish not to receive unsolicited commercial electronic messages at the electronic address, and the message is relevant to the person’s business, role, functions or duties in a business or official capacity; or | (c) the person to whom the message is sent has disclosed, to the person who sends the message, the person who causes it to be sent or the person who permits it to be sent, the electronic address to which the message is sent without indicating a wish not to receive unsolicited commercial electronic messages at the electronic address, and the message is relevant to the person’s business, role, functions or duties in a business or official capacity; or | (c) the person to whom the message is sent has disclosed, to the person who sends the message, the person who causes it to be sent or the person who permits it to be sent, the electronic address to which the message is sent without indicating a wish not to receive unsolicited commercial electronic messages at the electronic address, and the message is relevant to the person’s business, role, functions or duties in a business or official capacity; or |
| 856 | (d) the message is sent in the circumstances set out in the regulations. | (d) the message is sent in the circumstances set out in the regulations. | (d) the message is sent in the circumstances set out in the regulations. |
| 857 |  | **Transitional Provisions** | **Transitional Provisions** |
| 858 |  | **Definitions** | **Definitions** |
| 859 |  | 48 (1) The following definitions apply in this section and sections 49 to 52. | 48 (1) The following definitions apply in this section and sections 49 to 52. |
| 860 |  | ***new Act*** means the Broadcasting Act as it reads as of the royal assent day. (nouvelle loi) | new Act means the Broadcasting Act as it reads as of the royal assent day. (nouvelle loi) |
| 861 |  | ***old Act*** means the Broadcasting Act as it read immediately before the royal assent day. (ancienne loi) | old Act means the Broadcasting Act as it read immediately before the royal assent day. (ancienne loi) |
| 862 |  | ***royal assent day*** means the day on which this Act receives royal assent. (date de sanction) | royal assent day means the day on which this Act receives royal assent. (date de sanction) |
| 863 |  | **Words and expressions** | **Words and expressions** |
| 864 |  | (2) Unless otherwise provided, words and expressions used in sections 49 to 2 have the same meanings as in the Broadcasting Act. | (2) Unless otherwise provided, words and expressions used in sections 49 to 2 have the same meanings as in the Broadcasting Act. |
| 865 |  | **Conditions and requirements — deemed order** | **Conditions and requirements — deemed order** |
| 866 |  | 49 (1) Each of the following is deemed to be a condition imposed under an order, made under section 9.1 of the new Act, that applies only with respect to a particular licensee: | 49 (1) Each of the following is deemed to be a condition imposed under an order, made under section 9.1 of the new Act, that applies only with respect to a particular licensee: |
| 867 |  | (a) a condition of their licence imposed under section 9 of the old Act that, as of the royal assent day, could not be made the subject of an order under subsection 11.1(2) of the new Act; | (a) a condition of their licence imposed under section 9 of the old Act that, as of the royal assent day, could not be made the subject of an order under subsection 11.1(2) of the new Act; |
| 868 |  | (b) a requirement imposed on the licensee under any of paragraphs 9(1)(f) to (h) of the old Act. | (b) a requirement imposed on the licensee under any of paragraphs 9(1)(f) to (h) of the old Act. |
| 869 |  | **Regulations — deemed order** | **Regulations — deemed order** |
| 870 |  | (2) Any regulation made under paragraph 10(1)(a) or 10(1)(i) of the old Act is deemed to be an order made under section 9.1 of the new Act. | (2) Any regulation made under paragraph 10(1)(a) or 10(1)(i) of the old Act is deemed to be an order made under section 9.1 of the new Act. |
| 871 |  | **Expenditures — deemed regulations** | **Expenditures — deemed regulations** |
| 872 |  | 50 (1) The following are deemed to be regulations made under subsection 11.1(1) of the new Act: | 50 (1) The following are deemed to be regulations made under subsection 11.1(1) of the new Act: |
| 873 |  | (a) any terms and conditions imposed under an order made under subsection 9(4) of the old Act that, as of the royal assent day, could be the subject of such regulations; and | (a) any terms and conditions imposed under an order made under subsection 9(4) of the old Act that, as of the royal assent day, could be the subject of such regulations; and |
| 874 |  | (b) any regulations made under subsection (1) of the old Act that, as of the royal assent day, could be made under subsection 11.1(1) of the new Act. | (b) any regulations made under subsection (1) of the old Act that, as of the royal assent day, could be made under subsection 11.1(1) of the new Act. |
| 875 |  | **Expenditures — deemed order** | **Expenditures — deemed order** |
| 876 |  | (2) Any condition of a licensee’s licence that, as of the royal assent day, could be made the subject of an order under subsection 11.1(2) of the new | (2) Any condition of a licensee’s licence that, as of the royal assent day, could be made the subject of an order under subsection 11.1(2) of the new |