**Broadcasting Act**

**S.C. 1991, c. 11**

**1** This Act may be cited as the [*Broadcasting Act*](http://laws-lois.justice.gc.ca/eng/acts/B-9.01).

# PART IGeneral

## **Interpretation**

* **2** **(1)** In this Act,

**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 receiving apparatus** means a device, or combination of devices, intended for or capable of being used for the reception of broadcasting; (*récepteur*)

**broadcasting undertaking** includes a distribution undertaking, a programming undertaking and a network; (*entreprise de radiodiffusion*)

**Commission** means the Canadian Radio-television and Telecommunications Commission established by the [*Canadian Radio-television and Telecommunications Commission Act*](http://laws-lois.justice.gc.ca/eng/acts/C-22); (*Conseil*)

**Corporation** means the Canadian Broadcasting Corporation continued by section 36; (*Société*)

**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*)

**encrypted** means treated electronically or otherwise for the purpose of preventing intelligible reception; (*encodage*)

**licence** means a licence to carry on a broadcasting undertaking issued by the Commission under this Act; (*licence*)

**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*)

**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*)

**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*)

**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*)

**radio waves** means electromagnetic waves of frequencies lower than 3 000 GHz that are propagated in space without artificial guide; (*ondes radioélectriques*)

**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*)

* **Meaning of other means of telecommunication**

**(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.

###### Marginal note:Interpretation

**(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.

* 1991, c. 11, s. 2;
* 1993, c. 38, s. 81;
* 1995, c. 11, s. 43.

## **Broadcasting Policy for Canada**

###### Marginal note:Declaration

* **3** **(1)** It is hereby declared as the broadcasting policy for Canada that
  + **(a)** the Canadian broadcasting system shall be effectively owned and controlled by Canadians;
  + **(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;
  + **(c)** English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;
  + **(d)** the Canadian broadcasting system should
    - **(i)** serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada,
    - **(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,
    - **(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
    - **(iv)** be readily adaptable to scientific and technological change;
  + **(e)** each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming;
  + **(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;
  + **(g)** the programming originated by broadcasting undertakings should be of high standard;
  + **(h)** all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast;
  + **(i)** the programming provided by the Canadian broadcasting system should
    - **(i)** be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes,
    - **(ii)** be drawn from local, regional, national and international sources,
    - **(iii)** include educational and community programs,
    - **(iv)** provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern, and
    - **(v)** include a significant contribution from the Canadian independent production sector;
  + **(j)** educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system;
  + **(k)** a range of broadcasting services in English and in French shall be extended to all Canadians as resources become available;
  + **(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;
  + **(m)** the programming provided by the Corporation should
    - **(i)** be predominantly and distinctively Canadian,
    - **(ii)** reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions,
    - **(iii)** actively contribute to the flow and exchange of cultural expression,
    - **(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,
    - **(v)** strive to be of equivalent quality in English and in French,
    - **(vi)** contribute to shared national consciousness and identity,
    - **(vii)** be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and
    - **(viii)** reflect the multicultural and multiracial nature of Canada;
  + **(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);
  + **(o)** programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose;
  + **(p)** programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose;
  + **(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;
  + **(r)** the programming provided by alternative television programming services should
    - **(i)** be innovative and be complementary to the programming provided for mass audiences,
    - **(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,
    - **(iii)** reflect Canada’s regions and multicultural nature,
    - **(iv)** as far as possible, be acquired rather than produced by those services, and
    - **(v)** be made available throughout Canada by the most cost-efficient means;
  + **(s)** private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them,
    - **(i)** contribute significantly to the creation and presentation of Canadian programming, and
    - **(ii)** be responsive to the evolving demands of the public; and
  + **(t)** distribution undertakings
    - **(i)** should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations,
    - **(ii)** should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost,
    - **(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
    - **(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.

###### Marginal note:Further declaration

**(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.

## **Application**

###### Marginal note:Binding on Her Majesty

* **4** **(1)** This Act is binding on Her Majesty in right of Canada or a province.

###### Marginal note:Application generally

**(2)** This Act applies in respect of broadcasting undertakings carried on in whole or in part within Canada or on board

* + **(a)** any ship, vessel or aircraft that is
    - **(i)** registered or licensed under an Act of Parliament, or
    - **(ii)** owned by, or under the direction or control of, Her Majesty in right of Canada or a province;
  + **(b)** any spacecraft that is under the direction or control of
    - **(i)** Her Majesty in right of Canada or a province,
    - **(ii)** a citizen or resident of Canada, or
    - **(iii)** a corporation incorporated or resident in Canada; or
  + **(c)** any platform, rig, structure or formation that is affixed or attached to land situated in the continental shelf of Canada.

###### Marginal note:For greater certainty

**(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.

###### Marginal note:Idem

**(4)** For greater certainty, this Act does not apply to any telecommunications common carrier, as defined in the [*Telecommunications Act*](http://laws-lois.justice.gc.ca/eng/acts/T-3.4), when acting solely in that capacity.

* 1991, c. 11, s. 4;
* 1993, c. 38, s. 82;
* 1996, c. 31, s. 57.

# PART IIObjects and Powers of the Commission in Relation to Broadcasting

## **Objects**

###### Marginal note:Objects

* **5** **(1)** Subject to this Act and the [*Radiocommunication Act*](http://laws-lois.justice.gc.ca/eng/acts/R-2) 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).

###### Marginal note:Regulatory policy

**(2)** The Canadian broadcasting system should be regulated and supervised in a flexible manner that

* + **(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;
  + **(b)** takes into account regional needs and concerns;
  + **(c)** is readily adaptable to scientific and technological change;
  + **(d)** facilitates the provision of broadcasting to Canadians;
  + **(e)** facilitates the provision of Canadian programs to Canadians;
  + **(f)** does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians; 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.

###### Marginal note:Conflict

**(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).

###### Marginal note:Employment equity

**(4)** Where a broadcasting undertaking is subject to the [*Employment Equity Act*](http://laws-lois.justice.gc.ca/eng/acts/E-5.401), 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.

* 1991, c. 11, s. 5;
* 1995, c. 44, s. 46.

###### Marginal note:Policy guidelines and statements

**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.

###### Marginal note:Policy directions

* **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
  + **(a)** any of the objectives of the broadcasting policy set out in subsection 3(1); or
  + **(b)** any of the objectives of the regulatory policy set out in subsection 5(2).

###### Marginal note:Exception

**(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.

###### Marginal note:Directions binding

**(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.

###### Marginal note:Exception

**(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.

###### Marginal note:Publication and tabling

**(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.

###### Marginal note:Consultation

**(6)** The Minister shall consult with the Commission before the Governor in Council makes an order under subsection (1).

###### Marginal note:Procedure for issuance of policy directions

* **8** **(1)** Where the Governor in Council proposes to make an order under section 7, the Minister shall cause the proposed order to be
  + **(a)** published by notice in the [*Canada Gazette*](http://www.gazette.gc.ca/), which notice shall invite interested persons to make representations to the Minister with respect to the proposed order; and
  + **(b)** laid before each House of Parliament.

###### Marginal note:Referral to committee

**(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.

###### Marginal note:Implementation of proposal

**(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.

###### Marginal note:Consultation

**(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).

* **Definition of sitting day of Parliament**

**(5)** In this section, **sitting day of Parliament** means a day on which either House of Parliament sits.

## **General Powers**

###### Marginal note:Licences, etc.

* **9** **(1)** Subject to this Part, the Commission may, in furtherance of its objects,
  + **(a)** establish classes of licences;
  + **(b)** issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee
    - **(i)** as the Commission deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1), and
    - **(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);
  + **(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;
  + **(d)** issue renewals of licences for such terms not exceeding seven years and subject to such conditions as comply with paragraph (b);
  + **(e)** suspend or revoke any licence;
  + **(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;
  + **(g)** require any licensee who is authorized to carry on a distribution undertaking to give priority to the carriage of broadcasting; and
  + **(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.

###### Marginal note:Restrictions re conditions

**(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.

###### Marginal note:Exception

**(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.

###### Marginal note:Exemptions

**(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).