**Prof note:**

**Text highlighted added by the Online News Act (S.C. 2023, c. 23)**

**Text highlighted added or amended by the Online Streaming Act (S.C. 2023, c. 8)**

**Broadcasting Act**

**S.C. 1991, c. 11**

Assented to 1991-02-01

An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

**Short Title**

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

**PART IGeneral**

Interpretation

**Marginal note:Definitions**

* **2** **(1)** In this Act,

***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*)

***barrier*** has the same meaning as in section 2 of the [*Accessible Canada Act*](https://laws.justice.gc.ca/eng/acts/A-0.6); (*obstacle*)

***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 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, an online 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*](https://laws.justice.gc.ca/eng/acts/C-22); (*Conseil*)

***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*)

***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*)

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

***decision*** includes a determination made by the Commission in any form; (*décision*)

***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*)

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

***Indigenous peoples*** has the meaning assigned by the definition *aboriginal peoples of Canada* in subsection 35(2) of the [*Constitution Act, 1982*](https://laws.justice.gc.ca/eng/Const/); (*peuples autochtones*)

***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, but does not include such an operation that is an online undertaking; (*réseau*)

***official language minority community*** means English-speaking communities in Quebec and French-speaking communities outside Quebec; (*communauté de langue officielle en situation minoritaire*)

***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*)

***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 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 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*)

***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*)

* **Marginal note: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:Exclusion — carrying on broadcasting undertaking**

**(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.

* **Marginal note:Exclusion — social media service and programming control**

**(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.

* **Marginal note:Exclusion — certain transmissions over the Internet**

**(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

* + **(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;
  + **(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
  + **(c)** that is part of the operations of a theatre, concert hall or other venue for the presentation of live performing arts.
* **Marginal note:Interpretation**

**(3)** This Act shall be construed and applied in a manner that is consistent with

* + **(a)** the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings and creators;
  + **(b)** the commitment of the Government of Canada to enhance the vitality of English and French linguistic minority communities in Canada and to support and assist their development, taking into account their uniqueness, diversity and historical and cultural contributions to Canadian society, 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 minority 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.
* 1991, c. 11, s. 2
* 1993, c. 38, s. 81
* 1995, c. 11, s. 43
* [2023, c. 8, s. 2](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396510-1396934)
* [2023, c. 15, s. 70](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1402723-1405011)

[Previous Version](https://laws.justice.gc.ca/eng/acts/b-9.01/section-2-20230427.html)

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, and it is recognized that it includes foreign broadcasting undertakings that provide programming to Canadians;
  + **(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;
  + **(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)** 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;
  + **(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, and foster an environment that encourages the development and export of Canadian programs globally,
    - **(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, socio-economic 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,
    - **(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,
    - **(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.2)** support the production and broadcasting of original French language programs,
    - **(iii.3)** enhance the vitality of official language minority communities in Canada and support and assist their development by taking into account their specific needs and interests, including through supporting the production and broadcasting of original programs by and for those communities,
    - **(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.5)** ensure that Canadian independent broadcasting undertakings continue to be able to play a vital role within that system,
    - **(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 or other racialized communities and diverse ethnocultural backgrounds,
    - **(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,
    - **(iv)** promote innovation and be readily adaptable to scientific and technological change,
    - **(v)** reflect and be responsive to the preferences and interests of various audiences, and
    - **(vi)** ensure freedom of expression and journalistic independence;
  + **(e)** each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming;
  + **(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.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;
  + **(g)** the programming over which a person who carries on a broadcasting undertaking has programming control should be of high standard;
  + **(h)** all persons who carry on broadcasting undertakings have a responsibility for the programs that they broadcast and over which they have programming control;
  + **(i)** the programming provided by the Canadian broadcasting system should
    - **(i)** be varied and comprehensive, providing a balance of information, enlightenment and entertainment for people of all ages, interests and tastes,
    - **(i.1)** reflect 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,
    - **(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.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,
    - **(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,
    - **(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 to directly participate in public dialogue on those matters including through the community element, 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;
  + **(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;
  + **(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 specific needs and interests of official language minority communities,
    - **(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 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;
  + **(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.1)** programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system, including without limitation, closed captioning services and described video services available to assist persons living with a visual or auditory impairment;
  + **(q)** online undertakings that provide the programming services of other broadcasting undertakings should
    - **(i)** ensure the discoverability of Canadian programming services and original Canadian programs, including original French language programs, in an equitable proportion,
    - **(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, and
    - **(iii)** ensure the delivery of programming at affordable rates;
  + **(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;
  + **(s)** the programming provided by the community element should
    - **(i)** be innovative and 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 programs devoted to culture, politics, history, health and public safety, local news and current events, local economy and the arts,
    - **(iii)** reflect Canada’s communities, regions, Indigenous and multicultural nature, including through third-language programming,
    - **(iv)** support new and emerging Canadian creative talent, as a cost-effective venue for learning new skills, taking risks and exchanging ideas,
    - **(v)** through community participation, strengthen the democratic process and support local journalism, and
    - **(vi)** be available throughout Canada so that all Canadians can engage in dialogue on matters of public concern; 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.

* 1991, c. 11, s. 3
* [2023, c. 8, s. 3](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396517-1396981)

[Previous Version](https://laws.justice.gc.ca/eng/acts/b-9.01/section-3-20021231.html)

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*](https://laws.justice.gc.ca/eng/acts/T-3.4), when acting solely in that capacity.

* **Marginal note:Operators of digital news intermediaries**

**(5)** For greater certainty, this Act does not apply to the operator of a digital news intermediary in respect of which the [*Online News Act*](https://laws.justice.gc.ca/eng/acts/O-9.3) applies when the operator acts solely in that capacity. In this subsection, ***digital news intermediary*** and ***operator*** have the same meanings as in subsection 2(1) of that Act.

* 1991, c. 11, s. 4
* 1993, c. 38, s. 82
* 1996, c. 31, s. 57
* [2023, c. 23, s. 91](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1413306-1413702)

[Previous Version](https://laws.justice.gc.ca/eng/acts/b-9.01/section-4-20021231.html)

**Marginal note:Non-application — programs on social media 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.
* **Marginal note:Application — certain programs**

**(2)** Despite subsection (1), this Act applies in respect of a program that is uploaded as described in that subsection if the program

* + **(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
  + **(b)** is prescribed by regulations made under section 4.2.
* **Marginal note:Non-application — social media service**

**(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.

* **Marginal note:For greater certainty**

**(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.

* [2023, c. 8, s. 4](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396538-1396994)

**Marginal note:Regulations — programs to which this Act applies**

* **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.
* **Marginal note:Matters**

**(2)** In making regulations under subsection (1), the Commission shall consider the following matters:

* + **(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 such a program has been broadcast, in whole or in part, by a broadcasting undertaking that
    - **(i)** is required to be carried on under a licence, or
    - **(ii)** is required to be registered with the Commission but does not provide a social media service; and
  + **(c)** the fact that such a program has been assigned a unique identifier under an international standards system.
* **Marginal note:Exclusion**

**(3)** The regulations shall not prescribe a program

* + **(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
  + **(b)** that consists only of visual images.
* [2023, c. 8, s. 4](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396538-1397010)

**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*](https://laws.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)** 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 in North America — and the specific needs and interests of official language minority communities in Canada and of Indigenous peoples;
  + **(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.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;
  + **(b)** takes into account regional needs and concerns;
  + **(c)** promotes innovation and is readily adaptable to scientific and technological change;
  + **(d)** facilitates the provision of broadcasting 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 communities in Canada, as well as in Indigenous languages;
  + **(e.1)** facilitates the provision of programs that are accessible without barriers to persons with disabilities;
  + **(e.2)** facilitates the provision to Canadians of programs created and produced by members of Black or other racialized communities;
  + **(f)** does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians;
  + **(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.1)** protects the privacy of individuals who are members of the audience for programs broadcast by broadcasting undertakings; and
  + **(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).
* **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*](https://laws.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
* [2023, c. 8, s. 5](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396540-1397022)

[Previous Version](https://laws.justice.gc.ca/eng/acts/b-9.01/section-5-20021231.html)

**Marginal note:Official language minority communities**

**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.

* [2023, c. 8, s. 6](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396549-1397026)

**Marginal note:Consultation**

* **5.2** **(1)** The Commission shall consult with official language minority communities in Canada when making decisions that could adversely affect them.
* **Marginal note:Objectives of consultations**

**(2)** When engaging in consultations required by subsection (1), the Commission shall

* + **(a)** gather information to test its policies, decisions and initiatives;
  + **(b)** propose policies, decisions and initiatives that have not been finalized;
  + **(c)** seek the communities’ opinions with regard to the policies, decisions or initiatives that are the subject of the consultations;
  + **(d)** provide them with all relevant information on which those policies, decisions or initiatives are based;
  + **(e)** openly and meaningfully consider those opinions;
  + **(f)** be prepared to alter those policies, decisions or initiatives; and
  + **(g)** provide the communities with feedback, both during the consultation process and after a decision has been made.
* [2023, c. 8, s. 6](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396549-1397040)

**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:Representations**

**(2)** The Minister shall

* + **(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
  + **(b)** publish the representations that are made during that period.
* **Marginal note:Implementation of proposal**

**(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.

* **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).

* **(5)** [Repealed, 2023, c. 8, s. 7]
* 1991, c. 11, s. 8
* [2023, c. 8, s. 7](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396551-1397049)

[Previous Version](https://laws.justice.gc.ca/eng/acts/b-9.01/section-8-20021231.html)

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 other than for online undertakings;
  + **(b)** issue a licence, the term of which may be indefinite or fixed by the Commission;
  + **(c)** amend a licence as to its term, on the application of the licensee;
  + **(d)** amend a licence other than as to its term, on the application of the licensee or on the Commission’s own motion;
  + **(e)** renew a licence, the term of which may be indefinite or fixed by the Commission; and
  + **(f)** suspend or revoke a licence.
  + **(g)** [Repealed, 2023, c. 8, s. 8]
  + **(h)** [Repealed, 2023, c. 8, s. 8]
* **(2)** [Repealed, 2023, c. 8, s. 8]
* **(3)** [Repealed, 2023, c. 8, s. 8]
* **Marginal note:Exemptions**

**(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).

* **Marginal note:Repeal or amendment**

**(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).

* 1991, c. 11, s. 9
* 1994, c. 26, s. 10(F)
* [2023, c. 8, s. 8](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396555-1397065)

[Previous Version](https://laws.justice.gc.ca/eng/acts/b-9.01/section-9-20021231.html)

**Marginal note:Conditions**

* **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
  + **(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;
  + **(b)** the proportion of Canadian programs to be broadcast that shall be original French language programs, including first-run programs;
  + **(c)** the proportion of programs to be broadcast that shall be original French language programs;
  + **(d)** the proportion of programs to be broadcast that shall be devoted to specific genres, in order to ensure the diversity of programming;
  + **(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 original French language programs;
  + **(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*](https://laws.justice.gc.ca/eng/acts/T-3.4), for the distribution of programming directly to the public;
  + **(g)** a requirement for a person carrying on a distribution undertaking to give priority to the carriage of broadcasting;
  + **(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;
  + **(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;
  + **(j)** terms and conditions of service in contracts between distribution undertakings and their subscribers;
  + **(k)** access by persons with disabilities to programming, including the identification, prevention and removal of barriers to such access;
  + **(l)** the carriage of emergency messages;
  + **(m)** any change in the ownership or control of a broadcasting undertaking that is required to be carried on under a licence;
  + **(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
    - **(i)** the ownership, governance and control of those licensees or exempt persons, and
    - **(ii)** the affiliation of those licensees or exempt persons with any affiliates carrying on broadcasting undertakings;
  + **(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
    - **(i)** financial or commercial information,
    - **(ii)** information related to programming,
    - **(iii)** information related to expenditures made under section 11.1, and
    - **(iv)** information related to audience measurement, other than information that could identify any individual audience member; and
  + **(p)** continued ownership and control by Canadians of Canadian broadcasting undertakings.
* **Marginal note:Application**

**(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.

* **Marginal note:Non-application**

**(3)** The [*Statutory Instruments Act*](https://laws.justice.gc.ca/eng/acts/S-22) does not apply to orders made under this section.

* **Marginal note:Publication and representations**

**(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.

* **Marginal note:Publication**

**(5)** The Commission shall publish each order that is made under this section on its website.

* **Marginal note: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.

* **Marginal note:Canadian original French language programs**

**(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.

* **Marginal note:Restriction — 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.

* **Marginal note:Good faith negotiation**

**(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.

* **Marginal note:Facilitation**

**(10)** The Commission may facilitate those negotiations at the request of either party to the negotiations.

* [2023, c. 8, s. 9](https://laws.justice.gc.ca/eng/acts/b-9.01/FullText.html#1396562-1397110)