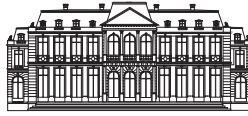


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## COMMUNICATIONS OUTLOOK 1999

### BROADCASTING

**Country:** Canada

**Date completed:** May 29, 1998

The attached questionnaire was undertaken in preparation for the biennial OECD Communications Outlook. The responses provided by Member countries on broadcasting regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on telecommunication regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

## BROADCASTING

### Broadcasting market status (Questions 1- 3)

1. Please provide details of the broadcasting and cable television infrastructure provision in your country.

Infrastructure provision for following service	Number of licensed operators (1997)	Number of privately owned companies <sup>1</sup>	Number of public service organisations <sup>2</sup>	
Terrestrial TV (National coverage) <sup>3</sup>	3	1	1	(1)
Terrestrial TV (Local coverage <sup>4</sup> only)	119	30	4	(2)
Pay & Specialty (National Coverage)	37	27	0	(3)
Pay & Specialty (Local Coverage)	7	4	0	(3)
Terrestrial radio (National coverage)	4	0	1	(4)
Terrestrial radio (Local coverage only)	595	174	0	(5)
Cable television service <sup>5</sup>	1,978	405	0	(6)
Analogue direct broadcast satellite (DBS) service	0	0	0	
Digital DBS service	2	2	0	

Note: 1998 numbers are not available, the above table contains 1997 statistics.

(1): Licensed national television networks: CTV network, CBC English TV Network and SRC French TV Network

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- <sup>1</sup> Defined as private sector companies holding one or more licences for service provision.  
<sup>2</sup> Including state-owned corporations or institutions holding one or more licences for service provision.  
<sup>3</sup> A service with national coverage is defined as a service by a group of television or radio stations





**6. How is broadcasting defined in your country's regulatory framework? In addition, please specify public service obligations stipulated in broadcasting regulations.**

Definition of broadcasting:

The *Broadcasting Act*, updated in 1991, outlines in detail the broadcasting policy for Canada and also provides objectives and requirements for the Canadian broadcasting system as a whole. The *Broadcasting Act* applies to broadcasting undertakings whether or not they are carried on for profit. The relevant definitions contained in the *Broadcasting Act* include:

- **Broadcasting:** “any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunications 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.”
- **Program:** “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.”
- **Telecommunications:** “the emission, transmission or reception of intelligence by any wire, cable, radio, optical or other electromagnetic system, or by any similar technical system.”

Public service obligations:

The *Broadcasting Act* stipulates that “each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming” (Section 3.1(e)). Therefore regulations and a variety of other mechanisms have been established to ensure private and public sector investment in the production and dissemination of distinctly Canadian programming (for specific Canadian content requirements see question 8).

Section 3.1(l, m) provides the specific mandate of the national public broadcaster:

- (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 languages community, including the particular needs and circumstances of English and French linguistic minorities
  - v) strive to be of equivalent quality in English and French
  - vi) contribute to 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

There are also a number of provincial public broadcasters licensed within Canada whose broadcast coverage is not national (e.g., TVOntario). These broadcasters are also subject to the requirements of the *Broadcasting Act* and the conditions of CRTC licence.

**7. Are there must-carry rules? For example, are cable television or satellite operators required by regulation to provide capacity for certain services? If yes, please elaborate on the reasons.**

All Canadian cable television systems and wireless systems (e.g. MDS) must provide to all its subscribers a standard package of services consisting of a number of mandatory (“priority”) Canadian programming services, including the CBC English and French network services, local and regional stations and educational services. As to Canadian DTH satellite distributors, they are required to distribute the CBC English and French network services and the programming of at least one affiliate of each national television networks licensed on a national basis (e.g. CTV).

In April 1996, the CRTC announced new rules designed to ensure that there is fair and equitable access to television broadcasting services. Under these access rules, cable television systems with 6,000 or more subscribers as well as Direct-to-Home (DTH) satellite distributors and major wireless systems (e.g. MDS) must generally distribute, in addition to priority television signals, all Canadian specialty and pay television services appropriate for their markets, such as those in the predominant official language of that market. These rules will be reviewed by the CRTC this fall.

Foreign satellite services must be distributed on a discretionary basis, in a package with Canadian specialty and/or pay television services. Canadian pay television services can be offered in a package with up to five channels allocated to foreign satellite services. Each Canadian specialty service within a discretionary tier may be linked with no more than one channel allocated to foreign satellite services. These linkage rules are designed to give Canadian cable subscribers access to the most popular foreign services and to ensure the maximum exposure of Canadian specialty services.

8. **Are there any local content requirements for broadcasters and cable television operators in your country in terms of the level of domestically produced content which must be broadcast, the amount of turn-over which must be allocated to domestic production or other criteria?**

Yes. To ensure that the cultural objectives set out in Section 3 of the *Broadcasting Act* are achieved, the Commission has established the following Canadian content requirements:

	Requirements
Terrestrial Television service	<p>The requirements for television are based on the amount of time devoted to Canadian programs. Canadian private television licensees generally must achieve a yearly Canadian content level of at least 60% overall, measured over the broadcast day, and 50% between 6 p.m. and midnight. As the national public broadcaster, the CBC must ensure that at least 60% of its program schedule consists of Canadian productions.</p> <p>To qualify as Canadian content, a program is evaluated using criteria based on the producer and key creative personnel used, the amounts paid to Canadians for services provided to make the program and on post production, as well as amounts spent in Canada on lab processing. Canadian broadcasters may claim a 150% time credit for Canadian dramas which have a full Canadian complement in all key creative roles, and which meet certain scheduling criteria.</p> <p>The CRTC is currently undertaking a broad and fundamental review of its policies relating to television, which will culminate with a major public hearing in September 1998.</p>
Satellite Programming Services (pay-TV, specialty and per-view)	<p>Canadian pay-TV, specialty and pay-per-view services have varying Canadian content requirements set by a condition of licence. These requirements depend on a number of factors, including the nature of the service and the types and availability of programming offered. They are reviewed by the CRTC at licence renewal time.</p>
Radio Stations	<p>Canadian content quotas for radio are based on the broadcast of a minimum number of musical selections to be aired during the official broadcast day (6 a.m. to midnight). On April 30, 1998, the CRTC announced a number of changes to its commercial radio policy. Under CRTC's new radio policy, AM and FM stations must broadcast, on a weekly basis, a minimum of 35% of popular musical sections. Broadcasters are also required to maintain a minimum of 35% of Canadian content from 6 a.m. to 6 p.m., Monday through Friday, and the Canadian selections must be played in their entirety.</p> <p>To qualify as 'Canadian content' a musical selection must generally fulfill at least two of the five criteria set out below. This is commonly referred to as the MAPL system.</p> <ul style="list-style-type: none"> <li>- <b>M</b> (music) -- the music is composed entirely by a Canadian</li> <li>- <b>A</b> (artist) -- the music is, or the lyrics are, performed principally by a Canadian</li> <li>- <b>P</b> (production) -- the musical selection consists of a live performance that is recorded wholly in Canada, or performed wholly in Canada and broadcast live in Canada.</li> <li>- <b>L</b> (lyrics) -- the lyrics are written entirely by a Canadian</li> <li>- The musical selection was performed live or recorded after September 1, 1991, and a Canadian who has collaborated with a non-Canadian receives at least half of the credit as a composer and lyricist.</li> </ul>
Broadcasting Distribution Undertakings (cable, DTH and MDS)	<p>A Canadian broadcasting distributor must ensure that a majority of the broadcasting services received by a subscriber are devoted to the distribution of Canadian programming services.</p> <p>A Canadian broadcasting distributor is not permitted to distribute a discretionary tier containing only foreign satellite services. Discretionary tiers are optional services offered for an additional fee over and above the price of basic service.</p>

- 9. Are there any limitations on share ratio, number of stations, or other ownership restrictions on entities investing in service providers of terrestrial broadcasting, cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.**

On April 30, 1998, the CRTC announced major changes to its ownership policy with respect to commercial radio stations. A single entity is now allowed to own up to three stations in the same language in the same market, but no more than two on either FM or AM. In markets of eight stations or more, one entity is now allowed to own up to four stations, but no more than two on either FM or AM.

With respect to television, the CRTC will not generally permit one entity to own more than one television station offering service in the same official language (i.e. English or French) in the same market.

There is no limit on the number of broadcasting distribution undertakings (e.g. cable television, MDS and DTH satellite services) an entity can own.



## **Cross-ownership and cross sector provision (Questions 10 - 14)**

- 10. Are there any restrictions on terrestrial broadcasting companies from directly providing the cable television infrastructures and services in your country? On the other hand, are there any restrictions on cable television operators from directly providing the terrestrial broadcasting companies in your country?**

There are no basic rules. It is examined by the CRTC on a case-by-case basis. For example, Rogers Communications Inc., the largest cable operator in Canada serving approximately 2.5 million subscribers, owns a multilingual television station, numerous radio stations, the Canadian satellite programming service *Outdoor Life*, and has minority interests in other Canadian satellite programming services.

Shaw Communications Inc., the second largest cable television operator in Canada with approximately 1.5 million subscribers, owns numerous radio stations, 49.3% of Star Choice, one of the two current DTH satellite services, 3 Canadian satellite programming services (*YTV*, *TreeHouse TV* and *New Country Network*), a pay audio service (*DMX Canada Ltd.*) and has minority interests in other Canadian satellite programming services.

- 11. Please specify any restrictions on cable television operators and terrestrial broadcasting companies investing (including merging and acquiring shares) in companies that provide other infrastructures or services.**

According to the Government's Convergence Policy, as broadcasting undertakings become involved in providing telecommunications services, and as telecommunications carriers become involved in providing broadcasting services, the following principles apply:

- regulation should prevent cross-subsidies from monopoly or utility services to competitive services, and between broadcasting and telecommunications services;
- regulation must ensure that the gross revenues from broadcasting activities are fully identified and accounted; and
- Canadian ownership rules applicable to broadcasting and telecommunications must be respected.

In keeping with these principles: where a broadcasting distribution undertaking or a telecommunications carrier wishes to provide a broadcasting programming service, the programming licence must be held by a structurally separate entity.

Any applicant who wishes to provide broadcasting distribution and telecommunications services through the same corporate entity would have to satisfy the Canadian Radio-television and Telecommunications Commission (CRTC) that: through regulatory measures and licence conditions, sufficient safeguards would exist to avoid anti-competitive behaviour from a dominant player position and cross-subsidies; gross revenues from broadcasting are fully identified and accounted; and direct and demonstrable benefits to consumers would flow from the economies of scope resulting from such arrangements.

A telecommunications carrier that does not meet the ownership and control requirements for broadcasting may only participate in broadcasting activities through a structurally separate entity at the permitted ownership level. This would not prevent the broadcasting licensee from leasing any or all of its facilities from the Canadian telecommunications carrier, nor would it prevent the carrier and the broadcasting undertaking from marketing their services jointly or sharing administrative and technical operations where justified for reasons of economies of scope.

In any case, the broadcasting licensee would have to satisfy the CRTC that it has control over all of its broadcasting activities.

12. **Are there any restrictions or limitations on foreign investment regarding services of terrestrial broadcasting , cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.**

Yes. By way of the Government's Direction to the CRTC (Ineligibility of Non-Canadians), foreign investment in Canadian broadcasting undertakings (e.g. radio, television, cable and satellite programming services) is limited to 20% of the voting interest at the licensee level and 33.3% of the voting interest at the parent or holding company level. There is no limit on foreign investment in the non-voting shares at either level.

13. **Are there any regulations restricting cross media ownership (e.g. broadcast television, radio, newspapers) for infrastructure and services in the same geographical market. Yes/No**

There are no regulation restricting cross media ownership with respect to broadcasting and newspapers. In the case of radio, cable, television and Canadian satellite programming services, it is examined by the CRTC on a case-by-case basis. For example, Le Groupe Vidéotron ltée, the largest cable operator in Quebec with more than 1 million subscribers, owns the French-language television network TVA and its affiliates, the Canadian satellite programming service *Le Canal Nouvelles*, and has interests in another Canadian satellite programming service and a television station in Quebec. It is also very active in interactive multimedia and on-line services.

14. **What kind of methods are adopted by regulatory authorities in order to measure market shares in broadcasting market? If the measure used is "audience rates", please describe the methodology used.**

Description of market share measurement

Both advertisement revenue and audience share are used to measure the market shares in broadcasting markets.

Methodology for measuring audience rates

Audience (viewing) data are obtained from a private organisation, the Bureau of Business Measurement (BBM). BBM conducts audience surveys with large samples in all the markets in Canada. The viewing share of a particular station (or program) in a market is calculated as the share of the total viewing hours associated with that station or program in that market.

## **Convergence (Questions 15 - 18)**

- 15. Under the communication regulation existing in your country how would services provided over the Internet, which some have likened to broadcasting services (e.g. audio and video services transmitted over the Internet) be defined and treated?**

The question of regulating the Internet is an emerging issue that evokes major differences of opinion. The view of the Government is that the Internet is subject to federal and provincial laws of general application.

As Internet technology evolves it will increasingly move towards programming services similar to broadcasting. There is no industry wide consensus on how to apply *Broadcasting Act* rules to this new medium. The federal government will however continue to explore new positive instruments to achieve policy objectives for the Internet. Our objectives include the promotion of Canadian content in both official languages, and ensuring that Canadians can access such content in an open and practical way.

The CRTC will be holding a Public Hearing in the fall of 1998 on the subject of New Media. This hearing will inform both the CRTC and the government on this major policy issue.

- 16. Would a video on demand service be treated differently in terms of regulations, by the transmission methods (for example, PSTN, cable or satellite)?**

The Canadian Policy on Convergence announced in August of 1996 created the conditions needed for fair and sustainable competition, expanded consumer choice, and continued support for Canadian culture. While the policy focuses more specifically on convergence issues between telecommunications and cable television, it also provides for competition from other technologies including DTH, DBS, and wireless (both MMDS and LMCS).

While new technologies allow broadcasting and telecommunications companies to offer similar services, the distinction between telecommunications, broadcasting and their services remains and will be guided by distinct regulatory systems. For example, when a telecommunications company provides broadcasting services, those services fall under the *Broadcasting Act* and its regulations; when a cable company provides telecommunications services, they will fall under the *Telecommunications Act* and its regulations.

Video on Demand that is transmitted by telecommunications has been deemed to be a broadcasting service by the CRTC (Public Notice 1994-118) and so licenced. Therefore, regardless of the transmission method, a video on demand service falls under the *Broadcasting Act*.

**17. Under the communication regulation existing in your country how would conditional access services, such as in digital DBS services, be treated?**

In Public Notice CRTC 1995- 217, the CRTC issued the broad regulatory guidelines for DTH satellite broadcasting undertakings (there are currently no DBS broadcasting licences). DTH satellite broadcasting undertakings are only permitted to carry authorised programming. Canadian licenced programming must meet Canadian content requirements (described elsewhere).

There are specific Canadian content requirements for general interest DTH pay per view programming services. These requirements are the same as those imposed upon other pay per view programming services. Specifically, these services must maintain a minimum Canadian to non Canadian ratio of 1:20 for feature films and a ratio of 1:7 for events (e.g., live concerts, hockey match). In addition, the programming services must ensure that a minimum of 12 Canadian feature films per year (including all new Canadian feature films that are suitable for pay per view) are distributed.

**18. Please detail plans for digital broadcasting and cable television services.**

	Number of Licences to be granted	Expected Number of New Channel Capacity	Expected Date of Service Commencement
Terrestrial TV service	all current licencees (122) are expected to apply for a digital licence	Not applicable	late 1999/2000
Terrestrial Radio service	all current licencees (599) are expected to apply for a digital licence	Not applicable	late 1998
Direct Broadcast Satellite service	currently 2 Canadian satellite services	Not applicable	already digital
Cable Television service	no new licencees will be required	Not applicable	implementation starting now through 2006

Additional information and comments

Canada's strategy is for an orderly transition to digital services with parallel analogue services continuing until the market is sufficiently mature in the transition --at some undetermined point in the future. The numbers above assume every licensee makes the transition. While some new growth can be expected, in general we operate a mature system and no wholesale licensing of new services is anticipated. One category not captured in these statistics is the pay/specialty tv service. At present, there are 44 licensees, and the regulator will hear 71 applications for new additional services in late 1998 or early 1999.