



CRTC Overview

Standing Committee on Canadian Heritage

Charles Dalfen, Chairman, CRTC

Ottawa

February 1, 2005



Canadian Radio-television and
Telecommunications Commission

Conseil de la radiodiffusion et des
télécommunications canadiennes

Canada

Overview

Mandate

The CRTC regulates and supervises the broadcasting and telecommunications industries in accordance with the policy objectives set out in sections 3 and 5 of the *Broadcasting Act* and in section 7 of the *Telecommunications Act*.

Broadcasting Act

The objectives of the *Broadcasting Act* are as follows:

Section 3. (1)

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,

Overview (cont'd)

- (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;

Overview (cont'd)

- (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,

Overview (cont'd)

- (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

Overview (cont'd)

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

Overview (cont'd)

- (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
 - (iii) 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.

Section 3. (2)

3. (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.

Overview (cont'd)

Section 5. (2)

5. (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.

Overview (cont'd)

Telecommunications Act Section 7

7. It is hereby affirmed that telecommunications performs an essential role in the maintenance of Canada's identity and sovereignty and that the Canadian telecommunications policy has as its objectives
- (a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;
 - (b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;
 - (c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;
 - (d) to promote the ownership and control of Canadian carriers by Canadians;
 - (e) to promote the use of Canadian transmission facilities for telecommunications within Canada and between Canada and points outside Canada;
 - (f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective;
 - (g) to stimulate research and development in Canada in the field of telecommunications and to encourage innovation in the provision of telecommunications services;
 - (h) to respond to the economic and social requirements of users of telecommunications services; and
 - (i) to contribute to the protection of the privacy of persons.

What is the CRTC?

- An independent public authority that **regulates** and **supervises** the Canadian broadcasting system and telecommunication carriers and service providers;
- As a quasi-judicial tribunal, all CRTC processes must adhere to the rules of natural justice, including fairness and transparency;
- Governed by the *Canadian Radio-television and Telecommunications Act*, the *Broadcasting Act* and the *Telecommunications Act*;
- Reports to Parliament via the Minister of Canadian Heritage.

Who is Regulated by the CRTC?

- Over 2,000 licensees, including conventional television stations, pay and specialty television services, cable television systems, Direct-to-Home satellite systems and AM and FM radio stations;
 - an \$11 billion broadcasting industry within Canada
- Close to 80 telecommunications carriers, including major Canadian telephone companies.
 - a \$32 billion telecommunications industry within Canada

Commissioners

Current full-time Commissioners, including Regional Commissioners

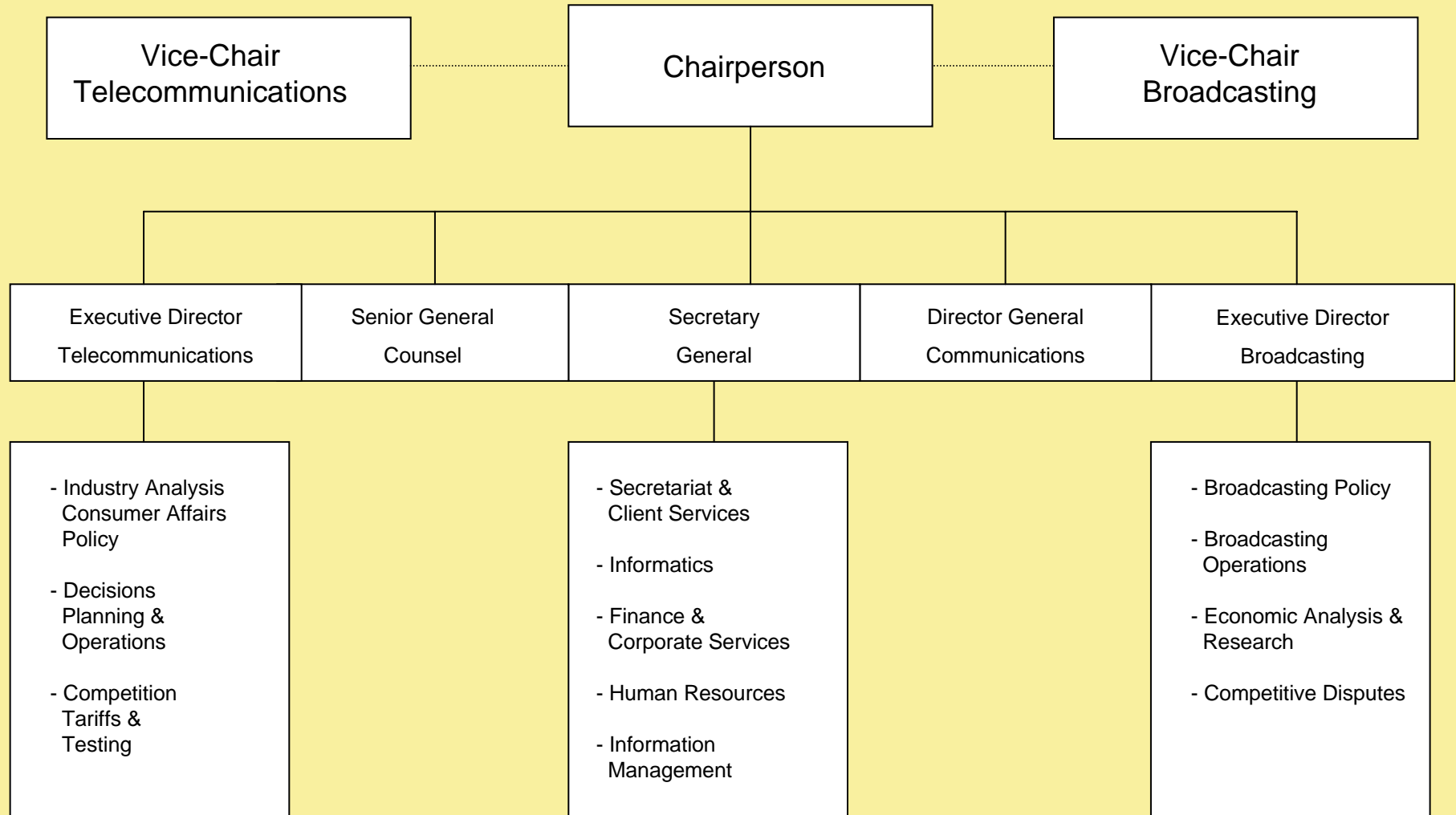
- Charles Dalfen, Chairperson
- Andrée Wylie, Vice-Chairperson, Broadcasting
- Stuart Langford
- Joan Pennefather
- Barbara Cram, Manitoba and Saskatchewan Region
- Andrée Noël, Quebec Region
- Ronald D. Williams, Alberta and Northwest Territories Region

Terms are for a maximum of 5 years and are renewable

Senior Management Structure

418 Employees

Current 2004-2005 budget is \$43.7 million



CRTC's Responsibilities in Broadcasting

The CRTC:

- Decides upon the issuance, renewal, amendment, suspension and revocation of licences for Canadian broadcasting undertakings;
- Decides upon applications for changes of ownership and control in the broadcasting sector;
- Develops and implements regulations and policies to meet the objectives of the *Act*;
- Resolves disputes and complaints arising under the *Broadcasting Act* and the regulations;
- Monitors compliance with the *Act* and the regulations;
- Monitors the state of the industry;
- Exempts broadcasting undertakings where regulation is not required to achieve the objectives of the *Act*; and
- Decides upon requests for the distribution of foreign broadcasting services.

CRTC Broadcasting Activity 2003-2004

- Received 853 applications
- Held 11 public hearings
- Issued 74 public notices
- Processed 30,000 interventions
- Issued 729 decisions
- Received 18,273 inquiries from the public, including 10,575 complaints

Appeals from CRTC Decisions to the Federal Court of Appeal

Broadcasting Act, Section 31

31. (1) Except as provided in this Part, every decision and order of the Commission is final and conclusive.

(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 therefore 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.

(3) No appeal lies after leave therefore 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.

(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.

Government's Powers Under the *Broadcasting Act*

Power to issue 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).
- (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.

Government's Powers Under the *Broadcasting Act*

Section 26

26. (1) The Governor in Council may, by order, issue directions to the Commission
- (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;
 - (b) respecting the reservation of channels or frequencies for the use of the Corporation or for any special purpose designated in the order;
 - (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
 - (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.

Section 22

22. (1) No licence shall be issued, amended or renewed under this Part
- (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).

Government's Powers Under the *Broadcasting Act*

Power to set aside or refer decisions back

Section 28

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).

(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.

Government's Powers Under the *Broadcasting Act*

(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

- (a) rescind the decision or the issue, amendment or renewal of the licence;
- (b) rescind the issue of the licence and issue a licence on the same or different conditions to another person; or
- (c) confirm, either with or without change, variation or alteration, the decision or the issue, amendment or renewal of the licence.

(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).

(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 therefore.

Government's Powers Under the *Broadcasting Act*

Power to request reports

Section 15

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*.

Section 14

14. (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.

Power to approve fees regulations

Section 11

11. (1) The Commission may make regulations
- (a) with the approval of the Treasury Board, establishing schedules of fees to be paid by licensees of any class;
 - (b) providing for the establishment of classes of licensees for the purposes of paragraph (a);
 - (c) providing for the payment of any fees payable by a licensee, including the time and manner of payment;
 - (d) respecting the interest payable by a licensee in respect of any overdue fee; and
 - (e) respecting such other matters as it deems necessary for the purposes of this section.

Government's Powers Under the *Broadcasting Act*

Powers relating to conditions of licence imposed on CBC

Section 23

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.

(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.

(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.

Key Documents

- Departmental Performance Reports
- Reports on Plans and Priorities
- CRTC 3-Year Work Plan 2004-2007
- Broadcasting Monitoring Report
- Telecommunications Monitoring Report
- Statistical and Financial Summaries

These reports and others are available on the CRTC Web site at:

<http://www.crtc.gc.ca/eng/publications/reports.htm>

Canadian Television Services

	English language*	French language	Third language	Total
Canadian conventional (over-the-air) (1)				
National public broadcaster (CBC)				
- Owned & operated	15	8		23
- Transitional digital	1	1		2
Private commercial	73	23	4	100
Religious	5			5
Educational	4	3		7
Native	10			10
Transitional digital	6	1	2	9
Canadian specialty, pay, pay-per-view(PPV) and video-on-demand (VOD)				
Analog specialty services	30	14	5	49
Category 1 digital specialty services (2)	15	3		18
Category 2 digital specialty services (2)	33		15	48
Pay television services (3)	5	1	1	7
Terrestrial PPV services (3)	5	1		6
Direct-to-home (DTH) PPV services (3)	5	1		6
VOD services (3)	11			11
Other Canadian services				
Community channels (4)	187	48		235
Community programming services	11	1		12
House of commons – Cable Public Affairs Channel (CPAC)	1	1		2
Non-Canadian services (5)				
Non-Canadian satellite services				
Authorized for distribution in Canada	82	6	19	107
Total number of television services	499	112	46	657

Excludes rebroadcasters and exempt television services. Also excludes network licences.

** Includes bilingual (English and French) and native services.*

(1) Includes satellite to cable services. (2) Includes only category 1 & 2 services launched prior to 1 October 2004. /

(3) Number of services licensed. / (4) Excludes Class 3 licensees / (5) Carriage of authorized services is at the discretion of the broadcast distribution undertaking. / Sources: CRTC APP 1205 report run 30 July 2004 and CRTC decisions

Canadian Radio and Audio Services

	English language*	French language	Third language	Total
Over-the-air radio services				
National public broadcaster:				
CBC: <i>Radio One / Première chaîne</i>	36	20		56
CBC: <i>Radio Two / Espace musique</i>	14	11		25
CBC network licences	2	2		4
CBC digital: <i>Radio One / Première chaîne</i>	5	4		9
CBC digital: <i>Radio Two /Espace musique</i>	5	4		9
Private commercial				
AM stations	172	18	9	199
FM stations	298	80	8	386
AM & FM network licences	26	11		37
Digital radio (<i>transitional</i>)	42	9	7	58
Community: - Type A stations	12	28		40
- Type B stations	20	20	1	41
Campus: - Community based	34	6		40
- Instructional	9			9
Native: Type B stations:	40	6		46
Religious (<i>spoken word and/or music</i>):	31	25		56
Other (<i>tourist/traffic; Environ. Canada; sp. event, etc.</i>)	107	16	1	124
Total number of over-the-air Canadian radio services	853	260	26	1,139
Audio services delivered by BDUs				
Specialty audio (<i>com. / non-profit, regional / national</i>)	3		11	14
Pay audio (<i>English & French national services</i>)	2			2
Total number of Canadian audio services delivered by BDUs	5		11	16
Total number of Canadian radio & audio services	858	260	37	1,155

* Includes bilingual (English and French) and native services. / Excludes rebroadcasters and exempt radio services.

Sources: CRTC APP 1205 report run April 2004 and CRTC decisions

Canadian Broadcasting Distribution Undertakings (BDUs)

Number of Canadian BDUs:

•	Cable:	<i>class 1</i>	139
		<i>class 2 *</i>	102
		<u><i>class 3 *</i></u>	<u>1,744</u>
			1,985
•	DTH		2
•	MDS		29
•	STV		12
•	Total number of broadcasting distribution undertakings		<u>2,028</u>

* **Most class 2 and 3 cable undertakings are eligible for exemption from licensing requirements.** (*Exemption order respecting cable systems having fewer than 2,000 subscribers, Public Notice CRTC 2001-121, Ottawa, 7 December 2001 / Exemption of cable broadcasting distribution undertakings that serve between 2,000 and 6,000 subscribers, Broadcasting Public Notice CRTC 2003-23, Ottawa, 30 April 2003*)

Sources: Cable systems - CCTA's 03-04 annual report. This information is as of September 2003 and is based on Mediastats; DTH, MDS & STV systems - CRTC APP 1205 report run 14 October 2004