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Broadcasting and Telecommunications Legislative Review: CNIB Brief

About CNIB Foundation

Celebrating 100 years in 2018, CNIB Foundation is a non-profit organization driven to change what it is to be blind today. We deliver innovative programs and powerful advocacy that empowers people impacted by blindness to live their dreams and tear down barriers to inclusion. Now, as CNIB enters our second century of operation, we're going to be even bolder in tackling the issues before us.

CNIB's Regulatory History

CNIB has a history of working closely with the Canadian Radio-Television and Telecommunications Commission (CRTC). CNIB has worked tirelessly to ensure that accessibility is built into Canada's telecommunication practices – to some success. The Government of Canada's Broadcasting and Telecommunication Legislative Review panel provides an opportunity for CNIB to bring forward the perspective and needs of Canadians who are blind or partially sighted.

Review Themes within CNIB's Scope

A. Reducing barriers to access by all Canadians to advanced telecommunications networks

Canadians who are blind or partially sighted rely on access to high speed broadband services. However, the price of these services is often too expensive for a population that has an average full-time employment rate of 28 percent. Pursuant to the CRTC's decision, "Modern telecommunication services – the path forward for Canada's digital economy," telecommunication service providers (TSP) are required to:

- make available wireless service packages that meet the needs of persons with disabilities; and
- clearly communicate these plans, including products readily available on their websites.



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While Telus, Rogers, and Bell Canada offer discounts for persons with disabilities, smaller carriers – including their own discount brands – fail to make available any packages that are uniquely designed to meet the needs of people who are blind or partially sighted. This includes additional data to facilitate independent way finding through accessible apps and virtual assistance. To ensure all telecommunication service providers comply with the CRTC's decision that they make available wireless service packages for Canadians with disabilities, and clearly advertise these on their website, CNIB recommends the implementation of administrative monetary penalties for non-compliance.

Virtual assistance applications allow users who are blind or partially sighted to connect to a sighted agent using the camera application on a smartphone. The process is like using FaceTime video services on an Apple iPhone. These applications mean Canadians who are blind or partially sighted can travel independently and call for help when they are lost, or if they get off their path of travel. The connected agent can help read signs, find sidewalks, and reconnect the user with their path of travel. Such applications also offer peace of mind when travelling alone.

However, virtual assistance applications that run on video capability also require a large amount of data. For wireless packages to meet the needs of Canadians with disabilities, they must be affordable and include data for consumers who use it in a way that isn't for recreation.

B. Supporting creation, production and discoverability of Canadian content

Canadian content should be accessible to all Canadians, regardless of ability. This includes Canadian programming such as film and television. The CRTC has set clear expectations that by September 2019, all Canadian broadcasters are to offer 28 hours per week of primetime content which includes described video. Furthermore, the CRTC passed requirements stipulating that:

"120. All elements of the broadcasting system should support the accessibility of programming, including Canadian Independent Production Funds. In this way, accessibility will become a regular course of doing business, which will create efficiencies and will also result in the creation of programming that has broader market value. The use of inclusive design principles at the early stages of production would improve access to programming by as many people as possible, in

a manner that would be more cost-effective and efficient than doing so only in post-production.

121. The Commission will therefore require that all programming resulting from Canadian Independent Production Funds, regardless of the platform through which it is distributed, be closed captioned in a manner consistent with closed captioning quality standards set out in Broadcasting Regulatory Policies 2011-741, 2011-741.1 and 2012-362, and any amendments to those standards and provided with described video.

122. As part of their annual reports, CIPFs will be required to confirm that all programming is closed captioned and contains described video."¹

Through tariffs set by the CRTC, Independent Production Funds make available resources to produce diverse programming. In the Commission's 2016 decision, cited above, expectations were clear. CNIB has not been able to verify, by looking through the Annual Reports of all CRTC funded Independent Production Funds, that every Fund produces diverse programming, including described video content. CNIB recommends the use of administrative monetary penalties for non-compliance to ensure all programming funded through the Independent Production Fund complies with CRTC's requirements relating to described video.

Given the comparatively low cost of described video on a production hour basis – an average of \$1,200 per hour for English content and an average of \$1,400 per hour for French – CNIB believes this would not create unnecessary hardship for producers or broadcasters alike and therefore should be ensured. Our research has discovered that this represents less than 1 percent of average programming production costs.

In a Part 1 application currently being reviewed by the Commission 2017-10-28-6 TVA group, a Quebec BDU is seeking to have their conditions of license modified, such that the availability of described video at the prescribed level of 28 hours per week will be further postponed until 2021 or 2022. Given that all Canadian BDUs and broadcasters have been aware of the described video expectation following the "Let's Talk TV" hearings first launched in 2013, CNIB has intervened asking that the TVA application be denied.

¹ "Broadcasting Regulatory Policy CRTC 2016-343: Policy Framework for Certified Independent Production Funds." *Canadian Radio-Television and Telecommunications Commission*, 25 Aug. 2016, crtc.gc.ca/eng/archive/2016/2016-343.pdf.



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Described video is an essential service; one which is long overdue and should not be prolonged any further.

Currently, the CRTC broadcasting logs do not track described video programming. CNIB believes logging described video would help to monitor implementation. Given that the CRTC requires Canadian broadcasters to provide regular broadcast logs, CNIB recommends the CRTC add another field to capture the availability of described video.

CNIB recommends that the Broadcasting Act be strengthened such that the Commissions numerous decisions regarding described video are not open for negotiation. This is a modestly priced and essential service which makes television accessible to subscribers with sight loss.

C. Improving the rights of the digital consumer

Canadians who are blind or partially sighted should have the same rights as sighted citizens. This includes the right to access information. As the scope of technology modernizes and grows, Canadians are turning to websites to find information about their terms of service, rights and responsibilities, and control over their personal information. However, the websites of telecom, broadcasters, BDUs and internet service providers do not always adhere to accessibility best practices.

CNIB recommends that websites adhere to accessibility standards, and be user tested by knowledgeable and competent users of assistive technology. These technologies would include screen readers, screen magnification software, braille displays and mobile devices. Often, even websites that adhere to all World Wide Web Consortium (W3C) standards encounter problems when assistive technology users try to access information.

CNIB's Recommendations

1. CNIB recommends the implementation of administrative monetary penalties for non-compliance to ensure all telecommunication service providers comply with the CRTC's decision that they make available wireless service packages for Canadians with disabilities, and clearly advertise these on their website.



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2. CNIB recommends the use of administrative monetary penalties for non-compliance to ensure all programming funded through the Independent Production Fund complies with CRTC's requirements relating to described video.
3. CNIB recommends that the Broadcasting Act be strengthened such that the Commissions numerous decisions regarding described video are not open for negotiation.
4. CNIB recommends that websites of telecom, broadcasters, BDUs and internet service providers be required to adhere to accessibility best practices and be user tested by knowledgeable and competent users of assistive technology.

CNIB's Suggested Legislative Changes

Telecommunications Act

Section 7: Canadian Telecommunications Policy

CNIB recommends section 7 of the Canadian Telecommunications Policy be amended to include, "as well as Indigenous peoples in Canada and Canadians with disabilities" to the end of section (b), so that 7(b) reads:

(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 **as well as Indigenous peoples in Canada and Canadians with disabilities;**

CNIB recommends section 7 of the Canadian Telecommunications Policy be amended to include, "including accessible equipment and services for Canadians with disabilities" to section (g) so that 7(g) reads:

(g) to stimulate research and development in Canada in the field of telecommunications, **including accessible equipment and services for Canadians with disabilities,** and to encourage innovation in the provision of telecommunications services;

Broadcasting Act

Section 3: Broadcasting Policy for Canada



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CNIB recommends section 3, the Broadcasting Policy for Canada, be amended to include, "the diversity of Indigenous peoples in Canada and Canadians with disabilities;" to the end of section (b) so that 3(b) reads:

(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,~~ **and the diversity of Indigenous peoples in Canada and Canadians with disabilities;**

CNIB recommends section 3, the Broadcasting Policy for Canada, be amended to include, "the needs of Canadians with disabilities" to section (d)(iii) so that 3(d)(iii) reads:

(d) (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, **the needs of Canadians with disabilities** and the special place of aboriginal peoples within that society, and

CNIB recommends section 3, the Broadcasting Policy for Canada, be amended to include, "and accessible" in section (m)(vii) so that 3(m)(vii) reads:

(m)(vii) be made available throughout Canada by the most appropriate, ~~and~~ efficient **and accessible** means and as resources become available for the purpose, and

CNIB recommends section 3, the Broadcasting Policy for Canada, be amended so (p) reads:

(p) **programming provided by the Corporation should be fully accessible for Canadians with disabilities.**

CNIB recommends section 3, the Broadcasting Policy for Canada, be amended to add a new subsection (iv), so the new subsection 3(r)(iv) reads:

(iv) **Reflect the needs of Canadians with disabilities.**



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And re-number the following subsections, accordingly.