

# Broadcasting Act

1991, c. 11

B-9.01

[Assented to February 1st, 1991]

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

*Short title*

1. This Act may be cited as the *Broadcasting Act*.

## PART I

### GENERAL

#### INTERPRETATION

*Definitions*

2. (1) In this Act, "broadcasting"

«*radiodiffusion*»

"broadcasting" means any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus, but does not include any such transmission of programs that is made solely for performance or display in a public place;

"broadcasting receiving apparatus"  
«*récepteur*»

"broadcasting receiving apparatus" means a device, or combination of devices, intended for or capable of being used for the reception of broadcasting;

"broadcasting undertaking"  
«*entreprise de radiodiffusion*»

"broadcasting undertaking" includes a distribution undertaking, a programming undertaking and a network;

"Commission"

«*Conseil*»

"Commission" means the Canadian Radio-television and Telecommunications Commission established by the *Canadian Radio-television and Telecommunications Commission Act*;

"Corporation"

«*Société*»

"Corporation" means the Canadian Broadcasting Corporation continued by section 36;

"distribution undertaking"

«*entreprise de distribution*»

"distribution undertaking" means an undertaking for the reception of broadcasting and the retransmission thereof by radio waves or other means of telecommunication to more than one permanent or temporary residence or dwelling unit or to another such undertaking;

"encrypted"

«*encodage*»

"encrypted" means treated electronically or otherwise for the purpose of preventing intelligible reception;

"licence"

«*licence*»

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

"Minister"

«*ministre*»

"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;

"network"

«*réseau*»

"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;

"program"

«*émission*»

"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;

"programming undertaking"

«*entreprise de 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;

"radio waves"

« *ondes radioélectriques* »

"radio waves" means electromagnetic waves of frequencies lower than 3 000 GHz that are propagated in space without artificial guide;

"temporary network operation"

« *exploitation temporaire d'un réseau* »

"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.

*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.

Interpretation

(3) This Act shall be construed and applied in a manner that is consistent with the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings.

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

## **BROADCASTING POLICY FOR CANADA**

*Declaration*

**3.** (1) It is hereby declared as the broadcasting policy for Canada that

(a) the Canadian broadcasting system shall be effectively owned and controlled by Canadians;

(b) the Canadian broadcasting system, operating primarily in the English and French languages and comprising public, private and community elements, makes use of radio frequencies that are public property and provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty;

(c) English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements;

(d) the Canadian broadcasting system should

(i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada,

- (ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view,
  - (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society, and
  - (iv) be readily adaptable to scientific and technological change;
- (e) each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming;
- (f) each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;
- (g) the programming originated by broadcasting undertakings should be of high standard;
- (h) all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast;
- (i) the programming provided by the Canadian broadcasting system should
- (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes,
  - (ii) be drawn from local, regional, national and international sources,
  - (iii) include educational and community programs,
  - (iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern, and
  - (v) include a significant contribution from the Canadian independent production sector;
- (j) educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system;
- (k) a range of broadcasting services in English and in French shall be extended to all Canadians as resources become available;

(*l*) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains;

(*m*) the programming provided by the Corporation should

(i) be predominantly and distinctively Canadian,

(ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions,

(iii) actively contribute to the flow and exchange of cultural expression,

(iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities,

(v) strive to be of equivalent quality in English and in French,

(vi) contribute to shared national consciousness and identity,

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

(viii) reflect the multicultural and multiracial nature of Canada;

(*n*) where any conflict arises between the objectives of the Corporation set out in paragraphs (*l*) and (*m*) and the interests of any other broadcasting undertaking of the Canadian broadcasting system, it shall be resolved in the public interest, and where the public interest would be equally served by resolving the conflict in favour of either, it shall be resolved in favour of the objectives set out in paragraphs (*l*) and (*m*);

(*o*) programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for the purpose;

(*p*) programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose;

(*q*) without limiting any obligation of a broadcasting undertaking to provide the programming contemplated by paragraph (*l*), alternative television programming services in English and in French should be provided where necessary to ensure that the full range of programming contemplated by that paragraph is made available through the Canadian broadcasting system;

(*r*) the programming provided by alternative television programming services should

(i) be innovative and be complementary to the programming provided for mass audiences,

(ii) cater to tastes and interests not adequately provided for by the programming provided for mass audiences, and include programming devoted to culture and the arts,

(iii) reflect Canada's regions and multicultural nature,

- (iv) as far as possible, be acquired rather than produced by those services, and
- (v) be made available throughout Canada by the most cost-efficient means;
- (s) private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them,
  - (i) contribute significantly to the creation and presentation of Canadian programming, and
  - (ii) be responsive to the evolving demands of the public; and
- (t) distribution undertakings
  - (i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations,
  - (ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost,
  - (iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and
  - (iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities.

*Further declaration*

(2) It is further declared that the Canadian broadcasting system constitutes a single system and that the objectives of the broadcasting policy set out in subsection (1) can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority.

**APPLICATION**

*Binding on Her Majesty*

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

*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.

*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.

*Idem*

(4) For greater certainty, this Act does not apply to any telecommunications common carrier, as defined in the *Telecommunications Act*, when acting solely in that capacity.

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

## **PART II**

### **OBJECTS AND POWERS OF THE COMMISSION IN RELATION TO BROADCASTING**

#### **OBJECTS**

*Objects*

**5.** (1) Subject to this Act and the *Radiocommunication Act* 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).

*Regulatory policy*

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

(a) is readily adaptable to the different characteristics of English and French language broadcasting and to the different conditions under which broadcasting undertakings that provide English or French language programming operate;

(b) takes into account regional needs and concerns;

(c) is readily adaptable to scientific and technological change;

(d) facilitates the provision of broadcasting to Canadians;

(e) facilitates the provision of Canadian programs to Canadians;

(f) does not inhibit the development of information technologies and their application or the delivery of resultant services to Canadians; and

(g) is sensitive to the administrative burden that, as a consequence of such regulation and supervision, may be imposed on persons carrying on broadcasting undertakings.

#### *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).

#### *Employment equity*

(4) Where a broadcasting undertaking is subject to the *Employment Equity Act*, 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.

#### *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.

#### *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).

#### *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.

#### *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.

#### *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.

#### *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.

#### *Consultation*

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

#### *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*, 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.

#### *Referral to committee*

(2) Where a proposed order is laid before a House of Parliament pursuant to subsection (1), it shall stand referred to such committee thereof as the House considers appropriate to deal with the subject-matter of the order.

#### *Implementation of proposal*

(3) The Governor in Council may, after the expiration of forty sitting days of Parliament after a proposed order is laid before both Houses of Parliament in accordance with subsection (1), implement the proposal by making an order under section 7, either in the form proposed or revised in such manner as the Governor in Council deems advisable.

#### *Consultation*

(4) The Minister shall consult with the Commission before a proposed order is published or is laid before a House of Parliament under subsection (1).

#### *Definition of "sitting day of Parliament"*

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

## **GENERAL POWERS**

#### *Licences, etc.*

9. (1) Subject to this Part, the Commission may, in furtherance of its objects,

- (a) establish classes of licences;
- (b) issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee
  - (i) as the Commission deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1), and
  - (ii) in the case of licences issued to the Corporation, as the Commission deems consistent with the provision, through the Corporation, of the programming contemplated by paragraphs 3(1)(l) and (m);
- (c) amend any condition of a licence on application of the licensee or, where five years have expired since the issuance or renewal of the licence, on the Commission's own motion;
- (d) issue renewals of licences for such terms not exceeding seven years and subject to such conditions as comply with paragraph (b);
- (e) suspend or revoke any licence;
- (f) require any licensee to obtain the approval of the Commission before entering into any contract with a telecommunications common carrier for the distribution of programming directly to the public using the facilities of that common carrier;
- (g) require any licensee who is authorized to carry on a distribution undertaking to give priority to the carriage of broadcasting; and
- (h) require any licensee who is authorized to carry on a distribution undertaking to carry, on such terms and conditions as the Commission deems appropriate, programming services specified by the Commission.

#### *Restrictions re conditions*

(2) Notwithstanding subsections (1) and 28(3), no licence of a distribution undertaking may be made subject to a condition that requires the licensee to substitute replacement material for commercial messages carried in a broadcasting signal received by that licensee.

#### *Exception*

(3) Subsection (2) does not apply in respect of a condition of a licence renewed after October 4, 1987 where before that date the licensee was complying with such a condition.

#### *Exemptions*

(4) The Commission shall, by order, on such terms and conditions as it deems appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part or of a regulation made under this Part where the Commission is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy set out in subsection 3(1).

1991, c. 11, s. 9; 1994, c. 26, s. 10(F).

### *Regulations generally*

**10.** (1) The Commission may, in furtherance of its objects, make regulations

(a) respecting the proportion of time that shall be devoted to the broadcasting of Canadian programs;

(b) prescribing what constitutes a Canadian program for the purposes of this Act;

(c) respecting standards of programs and the allocation of broadcasting time for the purpose of giving effect to the broadcasting policy set out in subsection 3(1);

(d) respecting the character of advertising and the amount of broadcasting time that may be devoted to advertising;

(e) respecting the proportion of time that may be devoted to the broadcasting of programs, including advertisements or announcements, of a partisan political character and the assignment of that time on an equitable basis to political parties and candidates;

(f) prescribing the conditions for the operation of programming undertakings as part of a network and for the broadcasting of network programs, and respecting the broadcasting times to be reserved for network programs by any such undertakings;

(g) respecting the carriage of any foreign or other programming services by distribution undertakings;

(h) for resolving, by way of mediation or otherwise, any disputes arising between programming undertakings and distribution undertakings concerning the carriage of programming originated by the programming undertakings;

(i) requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify;

(j) respecting the audit or examination of the records and books of account of licensees by the Commission or persons acting on behalf of the Commission; and

(k) respecting such other matters as it deems necessary for the furtherance of its objects.

### *Application*

(2) A regulation made under this section may be made applicable to all persons holding licences or to all persons holding licences of one or more classes.

### *Publication of proposed regulation*

(3) A copy of each regulation that the Commission proposes to make under this section shall be published in the *Canada Gazette* and a reasonable opportunity shall be given

to licensees and other interested persons to make representations to the Commission with respect thereto.

#### *Regulations respecting licence fees*

**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.

#### *Criteria*

(2) Regulations made under paragraph (1)(a) may provide for fees to be calculated by reference to any criteria that the Commission deems appropriate, including by reference to

(a) the revenues of the licensees;

(b) the performance of the licensees in relation to objectives established by the Commission, including objectives for the broadcasting of Canadian programs; and

(c) the market served by the licensees.

#### *Exceptions*

(3) No regulations made under subsection (1) shall apply to the Corporation or to licensees carrying on programming undertakings on behalf of Her Majesty in right of a province.

#### *Debt due to Her Majesty*

(4) Fees payable by a licensee under this section and any interest thereon constitute a debt due to Her Majesty in right of Canada and may be recovered as such in any court of competent jurisdiction.

#### *Publication of proposed regulations*

(5) A copy of each regulation that the Commission proposes to make under this section shall be published in the *Canada Gazette* and a reasonable opportunity shall be given to licensees and other interested persons to make representations to the Commission with respect thereto.

#### *Inquiries*

**12.** (1) Where it appears to the Commission that

(a) any person has failed to do any act or thing that the person is required to do pursuant to this Part or to any regulation, licence, decision or order made or issued by the Commission under this Part, or has done or is doing any act or thing in contravention of this Part or of any such regulation, licence, decision or order, or

(b) the circumstances may require the Commission to make any decision or order or to give any approval that it is authorized to make or give under this Part or under any regulation or order made under this Part,

the Commission may inquire into, hear and determine the matter.

#### *Mandatory orders*

(2) The Commission may, by order, require any person to do, forthwith or within or at any time and in any manner specified by the Commission, any act or thing that the person is or may be required to do pursuant to this Part or to any regulation, licence, decision or order made or issued by the Commission under this Part and may, by order, forbid the doing or continuing of any act or thing that is contrary to this Part or to any such regulation, licence, decision or order.

#### *Referral to Commission*

(3) Where an inquiry under subsection (1) is heard by a panel established under subsection 20(1) and the panel issues an order pursuant to subsection (2) of this section, any person who is affected by the order may, within thirty days after the making thereof, apply to the Commission to reconsider any decision or finding made by the panel, and the Commission may rescind or vary any order or decision made by the panel or may re-hear any matter before deciding it.

#### *Enforcement of mandatory orders*

**13.** (1) Any order made under subsection 12(2) may be made an order of the Federal Court or of any superior court of a province and is enforceable in the same manner as an order of the court.

#### *Procedure*

(2) To make an order under subsection 12(2) an order of a court, the usual practice and procedure of the court in such matters may be followed or, in lieu thereof, the Commission may file with the registrar of the court a certified copy of the order, and thereupon the order becomes an order of the court.

#### *Effect of variation or rescission*

(3) Where an order that has been made an order of a court is rescinded or varied by a subsequent order of the Commission, the order of the court shall be deemed to have been cancelled and the subsequent order may, in the same manner, be made an order of the court.

#### *Research*

**14.** (1) The Commission may undertake, sponsor, promote or assist in research relating to any matter within its jurisdiction under this Act and in so doing it shall, wherever appropriate, utilize technical, economic and statistical information and advice from the Corporation or departments or agencies of the Government of Canada.

*Review of technical matters*

(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.

*Hearings and reports*

**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.

*Consultation*

(2) The Minister shall consult with the Commission with regard to any request proposed to be made by the Governor in Council under subsection (1).

*Powers respecting hearings*

**16.** The Commission has, in respect of any hearing under this Part, with regard to the attendance, swearing and examination of witnesses at the hearing, the production and inspection of documents, the enforcement of its orders, the entry and inspection of property and other matters necessary or proper in relation to the hearing, all such powers, rights and privileges as are vested in a superior court of record.

*Authority re questions of fact or law*

**17.** The Commission has authority to determine questions of fact or law in relation to any matter within its jurisdiction under this Act.

## **HEARINGS AND PROCEDURE**

*Where public hearing required*

**18.** (1) Except where otherwise provided, the Commission shall hold a public hearing in connection with

- (a) the issue of a licence, other than a licence to carry on a temporary network operation;
- (b) the suspension or revocation of a licence;
- (c) the establishing of any performance objectives for the purposes of paragraph 11(2)(b); and
- (d) the making of an order under subsection 12(2).

*Idem*

(2) The Commission shall hold a public hearing in connection with the amendment or renewal of a licence unless it is satisfied that such a hearing is not required in the public interest.

*Where public hearing in Commission's discretion*

(3) The Commission may hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint or representation made to the Commission or in connection with any other matter within its jurisdiction under this Act if it is satisfied that it would be in the public interest to do so.

*Place of hearing*

(4) A public hearing under this section may be held at such place in Canada as the Chairperson of the Commission may designate.

1991, c. 11, s. 18; 2001, c. 34, s. 32(E).

*Notice of hearing*

**19.** The Commission shall cause notice of

(a) any application received by it for the issue, amendment or renewal of a licence, other than a licence to carry on a temporary network operation,

(b) any decision made by it to issue, amend or renew a licence, and

(c) any public hearing to be held by it under section 18

to be published in the *Canada Gazette* and in one or more newspapers of general circulation within any area affected or likely to be affected by the application, decision or matter to which the public hearing relates.

*Panels of Commission*

**20.** (1) The Chairperson of the Commission may establish panels, each consisting of not fewer than three members of the Commission, at least two of whom shall be full-time members, to deal with, hear and determine any matter on behalf of the Commission.

*Powers*

(2) A panel that is established under subsection (1) has and may exercise all the powers and may perform all the duties and functions of the Commission in relation to any matter before the panel.

*Decision*

(3) A decision of a majority of the members of a panel established under subsection (1) is a decision of the panel.

*Consultation*

(4) The members of a panel established under subsection (1) shall consult with the Commission, and may consult with any officer of the Commission, for the purpose of ensuring a consistency of interpretation of the broadcasting policy set out in subsection 3(1), the regulatory policy set out in subsection 5(2) and the regulations made by the Commission under sections 10 and 11.

1991, c. 11, s. 20; 2001, c. 34, s. 32(E).

### *Rules*

**21.** The Commission may make rules

(a) respecting the procedure for making applications for licences, or for the amendment, renewal, suspension or revocation thereof, and for making representations and complaints to the Commission; and

(b) respecting the conduct of hearings and generally respecting the conduct of the business of the Commission in relation to those hearings.

## **LICENCES**

### *Conditions governing issue, amendment and renewal*

**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); and

(b) subject to subsection (2), unless the Minister of Industry certifies to the Commission that the applicant for the issue, amendment or renewal of the licence

(i) has satisfied the requirements of the *Radiocommunication Act* and the regulations made under that Act, and

(ii) has been or will be issued a broadcasting certificate with respect to the radio apparatus that the applicant would be entitled to operate under the licence.

### *Exception*

(2) The requirement set out in paragraph (1)(b) does not apply in respect of radio apparatus, or any class thereof, prescribed under paragraph 6(1)(m) of the *Radiocommunication Act*.

### *Suspension or revocation of broadcasting certificate*

(3) No licence is of any force or effect during any period when the broadcasting certificate issued under the *Radiocommunication Act* with respect to the radio apparatus that the holder of the licence is entitled to operate under that Act is suspended or revoked.

### *Issue, etc., contravening this section*

(4) Any licence issued, amended or renewed in contravention of this section is of no force or effect.

1991, c. 11, s. 22; 1995, c. 1, s. 31.

#### *Consultation between Commission and Corporation*

**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.

#### *Reference to Minister*

(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.

#### *Ministerial directive*

(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.

#### *Consultation*

(4) The Minister shall consult with the Commission and with the Corporation before issuing a directive under subsection (3).

#### *Publication and tabling of directive*

(5) A directive issued by the Minister under subsection (3) shall be published forthwith in the *Canada Gazette* and shall be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the directive is issued.

#### *Conditions governing suspension and revocation*

**24.** (1) No licence shall be suspended or revoked under this Part unless the licensee applies for or consents to the suspension or revocation or, in any other case, unless, after a public hearing in accordance with section 18, the Commission is satisfied that

(a) the licensee has contravened or failed to comply with any condition of the licence or with any order made under subsection 12(2) or any regulation made under this Part; or

(b) the licence was, at any time within the two years immediately preceding the date of publication in the *Canada Gazette* of the notice of the public hearing, held by a person to whom the licence could not have been issued at that time by virtue of a direction to the Commission issued by the Governor in Council under this Act.

#### *Licences of Corporation*

(2) No licence issued to the Corporation that is referred to in the schedule may be suspended or revoked under this Part except on application of or with the consent of the Corporation.

*Publication of decision*

(3) A copy of a decision of the Commission relating to the suspension or revocation of a licence, together with written reasons for the decision, shall, forthwith after the making of the decision, be forwarded by prepaid registered mail to all persons who were heard at or made any oral representations in connection with the hearing held under subsection (1), and a summary of the decision and of the reasons for the decision shall, at the same time, be published in the *Canada Gazette* and in one or more newspapers of general circulation within any area affected or likely to be affected by the decision.

*Report of alleged contravention or non-compliance by Corporation*

**25.** (1) Where the Commission is satisfied, after a public hearing on the matter, that the Corporation has contravened or failed to comply with any condition of a licence referred to in the schedule, any order made under subsection 12(2) or any regulation made under this Part, the Commission shall forward to the Minister a report setting out the circumstances of the alleged contravention or failure, the findings of the Commission and any observations or recommendations of the Commission in connection therewith.

*Report to be tabled*

(2) The Minister shall cause a copy of the report referred to in subsection (1) to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report is received by the Minister.

**GENERAL POWERS OF THE GOVERNOR IN COUNCIL**

*Directions*

**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.

*Idem*

(2) Where the Governor in Council deems the broadcast of any program to be of urgent importance to Canadians generally or to persons resident in any area of Canada, the

Governor in Council may, by order, direct the Commission to issue a notice to licensees throughout Canada or throughout any area of Canada, of any class specified in the order, requiring the licensees to broadcast the program in accordance with the order, and licensees to whom any such notice is addressed shall comply with the notice.

#### *Publication and tabling*

(3) An order made under subsection (1) or (2) shall be published forthwith in the *Canada Gazette* and a copy thereof 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.

#### *Consultation*

(4) The Minister shall consult with the Commission with regard to any order proposed to be made by the Governor in Council under subsection (1).

#### *Directions re Free Trade Agreement*

**27.** (1) The Governor in Council may, either on the recommendation of the Minister made at the request of the Commission or on the Governor in Council's own motion, issue directions of general application respecting the manner in which the Commission shall apply or interpret paragraph 3 of Article 2006 of the Agreement.

#### *Effect of directions*

(2) A direction issued under subsection (1) is binding on the Commission from the time it comes into force and, unless otherwise provided therein, applies in respect of matters pending before the Commission at that time.

#### *Request of Commission*

(3) The Commission may, in order to request the issuance of a direction under subsection (1), suspend the determination of any matter of which it is seised.

#### *Definition of "Agreement"*

(4) In this section, "Agreement" has the same meaning as in the *Canada-United States Free Trade Agreement Implementation Act*.

#### *Setting aside or referring decisions back to Commission*

**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).

#### *Order on reference back*

(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.

### *Powers on reference back*

(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.

### *Setting aside after confirmation*

(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).

### *Reasons*

(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 therefor.

### *Filing of petitions*

**29.** (1) Every person who petitions the Governor in Council under subsection 28(1) or (4) shall at the same time send a copy of the petition to the Commission.

### *Notice*

(2) On receipt of a petition under subsection (1), the Commission shall forward a copy of the petition by prepaid registered mail to all persons who were heard at or made any oral representation in connection with the hearing held in the matter to which the petition relates.

### *Register*

(3) The Commission shall establish and maintain a public register in which shall be kept a copy of each petition received by the Commission under subsection 28(1) or (4).

### *Amendment of schedule*

**30.** The Governor in Council may, on the recommendation of the Minister made on the request of the Commission and with the consent of the Corporation, amend the schedule.

## **DECISIONS AND ORDERS**

### *Decisions and orders final*

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

*Appeal to Federal Court of Appeal*

(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 therefor 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.

*Entry of appeal*

(3) No appeal lies after leave therefor 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.

*Document deemed decision or order*

(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.

## **OFFENCES**

*Broadcasting without or contrary to licence*

**32.** (1) Every person who, not being exempt from the requirement to hold a licence, carries on a broadcasting undertaking without a licence therefor is guilty of an offence punishable on summary conviction and is liable

(a) in the case of an individual, to a fine not exceeding twenty thousand dollars for each day that the offence continues; or

(b) in the case of a corporation, to a fine not exceeding two hundred thousand dollars for each day that the offence continues.

*Contravention of regulation or order*

(2) Every person who contravenes or fails to comply with any regulation or order made under this Part is guilty of an offence punishable on summary conviction and is liable

(a) in the case of an individual, to a fine not exceeding twenty-five thousand dollars for a first offence and not exceeding fifty thousand dollars for each subsequent offence; or

(b) in the case of a corporation, to a fine not exceeding two hundred and fifty thousand dollars for a first offence and not exceeding five hundred thousand dollars for each subsequent offence.

*Contravention of conditions of licence*

33. Every person who contravenes or fails to comply with any condition of a licence issued to the person is guilty of an offence punishable on summary conviction.

Limitation

34. Proceedings for an offence under subsection 32(2) or section 33, may be instituted within, but not after, two years after the time when the subject-matter of the proceedings arose.

## PART III CANADIAN BROADCASTING CORPORATION

### INTERPRETATION

#### *Definitions*

35. (1) In this Part, "auditor"  
«*vérificateur*»

"auditor" means the auditor of the Corporation;

"Board"  
«*conseil d'administration*»

"Board" means the Board of Directors of the Corporation;

"Chairperson"  
«*président du conseil*»

"Chairperson" means the Chairperson of the Board;

"director"  
«*administrateur*»

"director" means a director of the Corporation;

"President"  
«*président-directeur général*»

"President" means the President of the Corporation;

"wholly-owned subsidiary"  
«*filiale à cent pour cent*»

"wholly-owned subsidiary" has the same meaning as in Part X of the *Financial Administration Act*.

#### *Interpretation*

(2) This Part shall be interpreted and applied so as to protect and enhance the freedom of expression and the journalistic, creative and programming independence enjoyed by the Corporation in the pursuit of its objects and in the exercise of its powers.

## CONTINUATION OF CORPORATION

### *Corporation continued*

**36.** (1) The corporation known as the Canadian Broadcasting Corporation is hereby continued and shall consist of those directors who from time to time compose the Board.

### *Board of Directors*

(2) There shall be a Board of Directors of the Corporation consisting of twelve directors, including the Chairperson and the President, to be appointed by the Governor in Council.

### *Tenure*

(3) A director shall be appointed to hold office during good behaviour for a term not exceeding five years and may be removed at any time by the Governor in Council for cause.

### *Re-appointment*

(4) Subject to section 38, the Chairperson and the President are eligible for re-appointment on the expiration of any term of office but any other director who has served two consecutive terms is not, during the twelve months following the completion of the second term, eligible for appointment, except as Chairperson or President.

### *Continuation in office*

(5) Notwithstanding subsections (3) and (4), if a director is not appointed to take office on the expiration of the term of office of an incumbent director, the incumbent director continues in office until a successor is appointed.

1991, c. 11, s. 36; 1995, c. 29, s. 4.

### *Oath of office*

**37.** Every director shall, before entering on the director's duties, take and subscribe, before the Clerk of the Privy Council, an oath or solemn affirmation, which shall be filed in the office of the Clerk, in the following form:

I, ....., do solemnly swear (or affirm) that I will faithfully, truly and impartially, to the best of my judgment, skill and ability, execute and perform the office of ..... (*Add, in the case where an oath is taken, "So help me God".*)

### *Outside interests of directors*

**38.** (1) A person is not eligible to be appointed or to continue as a director if the person is not a Canadian citizen who is ordinarily resident in Canada or if, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, the person

(a) is engaged in the operation of a broadcasting undertaking;

(b) has any pecuniary or proprietary interest in a broadcasting undertaking; or

(c) is principally engaged in the production or distribution of program material that is primarily intended for use by a broadcasting undertaking.

#### *Disposing of interest*

(2) A director in whom any interest prohibited by subsection (1) vests by will or succession for the director's own benefit shall, within three months thereafter, absolutely dispose of that interest.

#### *Responsibility of directors*

**39.** Subject to this Part, the Board is responsible for the management of the businesses, activities and other affairs of the Corporation.

#### *Accountability of Corporation to Parliament*

**40.** The Corporation is ultimately accountable, through the Minister, to Parliament for the conduct of its affairs.

### **CHAIRPERSON**

#### *Powers, duties and functions*

**41.** (1) The Chairperson shall preside at meetings of the Board and may exercise such powers and shall perform such other duties and functions as are assigned to the Chairperson by the by-laws of the Corporation.

#### *Part-time*

(2) The Chairperson shall perform the duties and functions of the office on a part-time basis.

#### *Absence, incapacity or vacancy of office*

(3) If the Chairperson is absent or incapacitated or if the office of Chairperson is vacant, the President shall act as Chairperson, and if both are absent or incapacitated or if both those offices are vacant, the Board may authorize a director to act as Chairperson, but no person so authorized by the Board has authority to act as Chairperson for a period exceeding sixty days without the approval of the Governor in Council.

### **PRESIDENT**

#### *Powers, duties and functions*

**42.** (1) The President is the chief executive officer of the Corporation and has supervision over and direction of the work and staff of the Corporation and may exercise such powers and shall perform such other duties and functions as are assigned to the President by the by-laws of the Corporation.

#### *Full-time*

(2) The President shall perform the duties and functions of the office on a full-time basis.

#### *Absence, incapacity or vacancy of office*

(3) If the President is absent or incapacitated or if the office of President is vacant, the Board may authorize an officer of the Corporation to act as President, but no person so authorized by the Board has authority to act as President for a period exceeding sixty days without the approval of the Governor in Council.

## **REMUNERATION**

### *Chairperson's and President's remuneration*

**43.** (1) The Chairperson and the President shall be paid by the Corporation remuneration at the rate fixed by the Governor in Council.

### *Fees of other directors*

(2) Each director, other than the Chairperson and the President, shall be paid by the Corporation such fees for attendance at meetings of the Board or any committee of directors as are fixed by the by-laws of the Corporation.

### *Expenses*

(3) Each director is entitled to be paid by the Corporation such travel and living expenses incurred by the director in the performance of the duties of that director as are fixed by the by-laws of the Corporation.

## **STAFF**

### *Employment of staff*

**44.** (1) The Corporation may, on its own behalf, employ such officers and employees as it considers necessary for the conduct of its business.

### *Terms, etc., of employment*

(2) The officers and employees employed by the Corporation under subsection (1) shall, subject to any by-laws made under section 51, be employed on such terms and conditions and at such rates of remuneration as the Board deems fit.

### *Not servants of Her Majesty*

(3) The officers and employees employed by the Corporation under subsection (1) are not officers or servants of Her Majesty.

## **STANDING COMMITTEES**

### *English and French language broadcasting committees*

**45.** (1) The Board shall establish a standing committee of directors on English language broadcasting and a standing committee of directors on French language broadcasting, each consisting of the Chairperson, the President and such other directors as the Board may appoint.

### *Chairperson or President shall preside*

(2) The Chairperson, or in the absence of the Chairperson, the President, shall preside at meetings of each standing committee established pursuant to subsection (1).

*Absence of Chairperson and President*

(3) In respect of each standing committee established pursuant to subsection (1), the Chairperson shall designate one of the directors to preside at meetings thereof in the event of the absence of both the Chairperson and the President.

*Duties of committees*

(4) The standing committee on English language broadcasting shall perform such duties in relation to English language broadcasting, and the standing committee on French language broadcasting shall perform such duties in relation to French language broadcasting, as are delegated to the committee by the by-laws of the Corporation.

## **OBJECTS AND POWERS**

*Objects and powers*

**46.** (1) The Corporation is established for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m), in accordance with the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, and for that purpose the Corporation may

- (a) establish, equip, maintain and operate broadcasting undertakings;
- (b) make operating agreements with licensees for the broadcasting of programs;
- (c) originate programs, secure programs from within or outside Canada by purchase, exchange or otherwise and make arrangements necessary for their transmission;
- (d) make contracts with any person, within or outside Canada, in connection with the production or presentation of programs originated or secured by the Corporation;
- (e) make contracts with any person, within or outside Canada, for performances in connection with the programs of the Corporation;
- (f) with the approval of the Governor in Council, make contracts with any person for the provision by the Corporation of consulting or engineering services outside Canada;
- (g) with the approval of the Governor in Council, distribute or market outside Canada programming services originated by the Corporation;
- (h) with the approval of the Minister, act as agent for or on behalf of any person in providing programming to any part of Canada not served by any other licensee;
- (i) collect news relating to current events in any part of the world and establish and subscribe to news agencies;

(j) publish, distribute and preserve, whether for a consideration or otherwise, such audio-visual material, papers, periodicals and other literary matter as may seem conducive to the attainment of the objects of the Corporation;

(k) produce, distribute and sell such consumer products as may seem conducive to the attainment of the objects of the Corporation;

(l) acquire copyrights and trade-marks;

(m) acquire and use any patent, patent rights, licences or concessions that the Board considers useful for the purposes of the Corporation;

(n) make arrangements or agreements with any organization for the use of any rights, privileges or concessions that the Board considers useful for the purposes of the Corporation;

(o) acquire broadcasting undertakings either by lease or by purchase;

(p) make arrangements or agreements with any organization for the provision of broadcasting services;

(q) subject to the approval of the Governor in Council, acquire, hold and dispose of shares of the capital stock of any company or corporation that is authorized to carry on any business incidental or conducive to the attainment of the objects of the Corporation; and

(r) do all such other things as the Board deems incidental or conducive to the attainment of the objects of the Corporation.

#### *International service*

(2) The Corporation shall, within the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, provide an international service in accordance with such directions as the Governor in Council may issue.

#### *Power to act as agent*

(3) The Corporation may, within the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, act as an agent of Her Majesty in right of Canada or a province in respect of any broadcasting operations that it may be directed by the Governor in Council to carry out.

#### *Extension of services*

(4) In planning extensions of broadcasting services, the Corporation shall have regard to the principles and purposes of the *Official Languages Act*.

#### *Independence*

(5) The Corporation shall, in the pursuit of its objects and in the exercise of its powers, enjoy freedom of expression and journalistic, creative and programming independence.

#### *Debt obligations*

**46.1** (1) The Corporation may, with the approval of the Minister of Finance, borrow money by any means, including the issuance and sale of bonds, debentures, notes and any other evidence of indebtedness of the Corporation.

*Loans to the Corporation*

(2) At the request of the Corporation, the Minister of Finance may, out of the Consolidated Revenue Fund, lend money to the Corporation on such terms and conditions as that Minister may fix.

*Total indebtedness*

(3) The total indebtedness outstanding in respect of borrowings under subsections (1) and (2) shall not exceed

(a) \$25,000,000; or

(b) such greater amount as may be authorized for the purposes of this subsection by Parliament under an appropriation Act.

1994, c. 18, s. 18.

**AGENT OF HER MAJESTY**

*Corporation an agent of Her Majesty*

**47.** (1) Except as provided in subsections 44(1) and 46(2), the Corporation is, for all purposes of this Act, an agent of Her Majesty, and it may exercise its powers under this Act only as an agent of Her Majesty.

*Contracts*

(2) The Corporation may, on behalf of Her Majesty, enter into contracts in the name of Her Majesty or in the name of the Corporation.

*Property*

(3) Property acquired by the Corporation is the property of Her Majesty and title thereto may be vested in the name of Her Majesty or in the name of the Corporation.

*Proceedings*

(4) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Corporation on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against the Corporation in the name of the Corporation in any court that would have jurisdiction if the Corporation were not an agent of Her Majesty.

*Acquisition and disposition of property*

**48.** (1) Subject to subsection (2), the Corporation may purchase, lease or otherwise acquire any real or personal property that the Corporation deems necessary or convenient for carrying out its objects and may sell, lease or otherwise dispose of all or any part of any property acquired by it.

### *Restriction*

(2) The Corporation shall not, without the approval of the Governor in Council, enter into

(a) any transaction for the acquisition of any real property or the disposition of any real or personal property, other than program material or rights therein, for a consideration in excess of four million dollars or such greater amount as the Governor in Council may by order prescribe; or

(b) a lease or other agreement for the use or occupation of real property involving an expenditure in excess of four million dollars or such greater amount as the Governor in Council may by order prescribe.

### *Retaining proceeds*

(3) Subject to subsection (4), the Corporation may retain and use all of the proceeds of any transaction for the disposition of real or personal property.

### *Idem*

(4) In the case of a transaction for the disposition of real or personal property requiring the approval of the Governor in Council under subsection (2), the Corporation may retain and use all or any part of the proceeds therefrom unless otherwise directed by the Governor in Council.

### *Expropriation*

**49.** (1) Where, in the opinion of the Corporation, the taking or acquisition of any land or interest therein by the Corporation without the consent of the owner is required for the purpose of carrying out its objects, the Corporation shall so advise the appropriate Minister in relation to Part I of the *Expropriation Act*.

### *Application of Expropriation Act*

(2) For the purposes of the *Expropriation Act*, any land or interest therein that, in the opinion of the Minister referred to in subsection (1), is required for the purpose of carrying out the objects of the Corporation shall be deemed to be land or an interest therein that, in the opinion of the Minister, is required for a public work or other public purpose and, in relation thereto, a reference to the Crown in that Act shall be construed as a reference to the Corporation.

## **HEAD OFFICE AND MEETINGS**

### *Head office*

**50.** (1) The head office of the Corporation shall be in the National Capital Region as described in the schedule to the *National Capital Act* or at such other place in Canada as the Governor in Council may specify.

### *Meetings*

(2) The Board shall meet at least six times in each year.

### *Telephone conferences*

(3) A director may, subject to the by-laws of the Corporation, participate in a meeting of the Board or a committee of directors by means of such telephone or other communication facilities as permit all persons participating in the meeting to hear each other, and a director who participates in such a meeting by those means is deemed for the purposes of this Part to be present at the meeting.

## **BY-LAWS**

### *By-laws*

**51.** (1) The Board may make by-laws

(a) respecting the calling of meetings of the Board;

(b) respecting the conduct of business at meetings of the Board, the establishment of special and standing committees of directors, the delegation of duties to special and standing committees of directors, including the committees referred to in section 45, and the fixing of quorums for meetings thereof;

(c) fixing the fees to be paid to directors, other than the Chairperson and the President, for attendance at meetings of the Board or any committee of directors, and the travel and living expenses to be paid to directors;

(d) respecting the duties and conduct of the directors, officers and employees of the Corporation and the terms and conditions of employment and of termination of employment of officers and employees of the Corporation, including the payment of any gratuity to those officers and employees or any one or more of them, whether by way of retirement allowance or otherwise;

(e) respecting the establishment, management and administration of a pension fund for the directors, officers and employees of the Corporation and their dependants, the contributions thereto to be made by the Corporation and the investment of the pension fund moneys thereof; and

(f) generally for the conduct and management of the affairs of the Corporation.

### *Certain by-laws subject to Minister's approval*

(2) No by-law made under paragraph (1)(c) or (e), and no by-law made under paragraph (1)(d) that provides for the payment of any gratuity referred to in that paragraph, has any effect unless it is approved by the Minister.

## **FINANCIAL PROVISIONS**

### *Independence of the Corporation*

**52.** (1) Nothing in sections 53 to 70 shall be interpreted or applied so as to limit the freedom of expression or the journalistic, creative or programming independence enjoyed by the Corporation in the pursuit of its objects and in the exercise of its powers.

### *Idem*

(2) Without limiting the generality of subsection (1), and notwithstanding sections 53 to 70 or any regulation made under any of those sections, the Corporation is not required to

(a) submit to the Treasury Board or to the Minister or the Minister of Finance any information the provision of which could reasonably be expected to compromise or constrain the journalistic, creative or programming independence of the Corporation; or

(b) include in any corporate plan or summary thereof submitted to the Minister pursuant to section 54 or 55 any information the provision of which could reasonably be expected to limit the ability of the Corporation to exercise its journalistic, creative or programming independence.

*Part VII of Financial Administration Act not to apply*

**52.1** Notwithstanding the *Financial Administration Act*, Part VII of that Act does not apply to a debt incurred by the Corporation.

1994, c. 18, s. 19.

*Financial year*

**53.** The financial year of the Corporation is the period beginning on April 1 in one year and ending on March 31 in the next year, unless the Governor in Council otherwise directs.

*Corporate plan*

**54.** (1) The Corporation shall annually submit a corporate plan to the Minister.

*Scope of corporate plan*

(2) The corporate plan of the Corporation shall encompass all the businesses and activities, including investments, of the Corporation and its wholly-owned subsidiaries, if any.

*Contents of corporate plan*

(3) The corporate plan of the Corporation shall include

(a) a statement of

(i) the objects for which the Corporation is incorporated, as set out in this Act,

(ii) the Corporation's objectives for the next five years and for each year in that period and the strategy the Corporation intends to employ to achieve them, and

(iii) the Corporation's expected performance for the year in which the plan is submitted as compared to its objectives for that year, as set out in the last corporate plan;

(b) the capital budget of the Corporation for the next following financial year of the Corporation;

- (c) an operating budget for the next following financial year of the Corporation; and
- (d) where the Corporation intends to borrow money in the next financial year, a general indication of the borrowing plans and strategies of the Corporation for that year.

#### *Approval of Minister of Finance*

(3.1) Where the Corporation includes a general indication of its plans to borrow money in its corporate plan, the Corporation shall submit that part of its corporate plan to the Minister of Finance for that Minister's approval.

#### *Capital budgets*

(4) The Corporation shall submit the capital budget to the Minister in a corporate plan pursuant to paragraph (3)(b) for the approval of the Treasury Board.

#### *Notification of business activity*

(5) Where the Corporation or a wholly-owned subsidiary of the Corporation proposes to carry out a substantial change to business activities in any period in a manner that is not consistent with the last corporate plan of the Corporation in respect of that period, the Corporation shall forthwith notify the Minister in writing of the inconsistency in the manner of carrying on the business activity.

#### *Scope of budgets*

(6) The budgets of the Corporation referred to in paragraphs (3)(b) and (c) shall encompass all the businesses and activities, including investments, of the Corporation and its wholly-owned subsidiaries, if any.

#### *Form of budgets*

(7) The budgets of the Corporation referred to in paragraphs (3)(b) and (c) shall be prepared in a form that clearly sets out information according to the major businesses or activities of the Corporation and its wholly-owned subsidiaries, if any.

#### *Approval of multi-year items*

(8) The Treasury Board may approve any item in a capital budget submitted pursuant to paragraph (3)(b) for any financial year or years following the financial year for which the budget is submitted.

1991, c. 11, s. 54; 1994, c. 18, s. 20.

#### *Summary of plan*

**55.** (1) The Corporation shall submit to the Minister, in respect of each financial year, a summary of the corporate plan submitted pursuant to section 54 that summarizes the information referred to in subsection 54(3), modified so as to be based on the financial resources proposed to be allocated to the Corporation as set out in the Estimates for that financial year that have been tabled in the House of Commons.

#### *Scope of summary*

(2) A summary shall encompass all the businesses and activities, including investments, of the Corporation and its wholly-owned subsidiaries, if any, and shall set out the major business decisions taken with respect thereto.

#### *Form of summary*

(3) A summary shall be prepared in a form that clearly sets out information according to the major businesses or activities of the Corporation and its wholly-owned subsidiaries, if any.

#### *Tabling in Parliament*

(4) The Minister shall cause a copy of every summary received pursuant to this section to be laid before each House of Parliament.

#### *Reference to committee*

(5) A summary laid before a House of Parliament pursuant to subsection (4) stands permanently referred to such committee of that House or of both Houses of Parliament as may be designated or established to review matters relating to the business and activities of the Corporation.

#### *Regulations*

**56.** The Treasury Board may make regulations prescribing the form in which corporate plans and summaries required pursuant to sections 54 and 55 shall be prepared, the information to be included therein, the information to accompany corporate plans and the time at, before or within which they are to be submitted and summaries are to be laid before each House of Parliament.

#### *Bank accounts*

- 57.** (1) The Corporation shall maintain in its own name one or more accounts with
- (a) any member of the Canadian Payments Association;
  - (b) any local Cooperative Credit Society that is a member of a Central Cooperative Credit Society having membership in the Canadian Payments Association; and
  - (c) subject to the approval of the Minister of Finance, any financial institution outside Canada.

#### *Administration of Corporation funds*

(2) All money received by the Corporation through the conduct of its operations or otherwise shall be deposited to the credit of the accounts established pursuant to subsection (1) and shall be administered by the Corporation exclusively in the exercise of its powers and the performance of its duties and functions.

#### *Investments*

(3) The Corporation may invest any money administered by it in bonds or other securities of, or guaranteed by, the Government of Canada.

### *Proprietor's Equity Account*

(4) The Corporation shall, in its books of account, establish a Proprietor's Equity Account and shall credit thereto the amount of all money paid to the Corporation for capital purposes out of parliamentary appropriations.

### *Receiver General account*

**58.** (1) The Corporation shall, if so directed by the Minister of Finance with the concurrence of the Minister, and may, if the Minister of Finance and the Minister approve, pay or cause to be paid all or any part of the money of the Corporation or of a wholly-owned subsidiary of the Corporation to the Receiver General to be paid into the Consolidated Revenue Fund and credited to a special account in the accounts of Canada in the name of the Corporation or subsidiary, and the Receiver General, subject to such terms and conditions as the Minister of Finance may prescribe, may pay out, for the purposes of the Corporation or subsidiary, or repay to the Corporation or subsidiary, all or any part of the money credited to the special account.

### *Interest*

(2) Interest may be paid in respect of money credited to a special account pursuant to subsection (1), in accordance with and at rates fixed by the Minister of Finance with the approval of the Governor in Council.

### *Payment over surplus money*

**59.** Subject to any other Act of Parliament, where the Minister and the Minister of Finance, with the approval of the Governor in Council, so direct, the Corporation shall pay or cause to be paid to the Receiver General so much of the money of the Corporation or of a wholly-owned subsidiary of the Corporation as those Ministers consider to be in excess of the amount that is required for the purposes of the Corporation or subsidiary, and any money so paid may be applied toward the discharge of any obligation of the Corporation or subsidiary to the Crown or may be applied as revenues of Canada.

### **60.**

(1) to (6) [Repealed, 2005, c. 30, s. 41]

### *Reports to Minister*

(7) The Board shall make to the Minister such reports of the financial affairs of the Corporation as the Minister requires.

1991, c. 11, s. 60; 2005, c. 30, s. 41.

### *Auditor of the Corporation*

**61.** The Auditor General of Canada is the auditor of the Corporation.

**62.** [Repealed, 2005, c. 30, s. 42]

**63.** [Repealed, 2005, c. 30, s. 42]

64. [Repealed, 2005, c. 30, s. 42]

65. [Repealed, 2005, c. 30, s. 42]

66. [Repealed, 2005, c. 30, s. 42]

67. [Repealed, 2005, c. 30, s. 42]

68. [Repealed, 2005, c. 30, s. 42]

69. [Repealed, 2005, c. 30, s. 42]

#### *Report on wholly-owned subsidiaries*

70. The Corporation shall forthwith notify the Minister and the President of the Treasury Board of the name of any corporation that becomes or ceases to be a wholly-owned subsidiary of the Corporation.

### **REPORT TO PARLIAMENT**

#### *Annual report*

71. (1) The Corporation shall, as soon as possible after, but in any case within three months after, the end of each financial year, submit an annual report on the operations of the Corporation in that year concurrently to the Minister and to the President of the Treasury Board, and the Minister shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives it.

#### *Reference to committee*

(2) An annual report laid before a House of Parliament pursuant to subsection (1) stands permanently referred to such committee of that House or of both Houses of Parliament as may be designated or established to review matters relating to the business and activities of the Corporation.

#### *Form and contents*

(3) The annual report of the Corporation shall include

(a) the financial statements of the Corporation referred to in subsection 131(4) of the *Financial Administration Act*,

(b) the annual auditor's report referred to in section 132 of the *Financial Administration Act*,

(c) a statement on the extent to which the Corporation has met its objectives for the financial year,

(d) quantitative information respecting the performance of the Corporation, including its wholly-owned subsidiaries, if any, relative to the Corporation's objectives, and

(e) such other information in respect of the financial affairs of the Corporation as is required by this Part or by the Minister to be included therein,

and shall be prepared in a form that clearly sets out information according to the major businesses or activities of the Corporation and its wholly-owned subsidiaries, if any.

1991, c. 11, s. 71; 2005, c. 30, s. 43.

## PART IV

### RELATED AND CONSEQUENTIAL AMENDMENTS, REPEAL, TRANSITIONAL AND COMING INTO FORCE

#### RELATED AND CONSEQUENTIAL AMENDMENTS

**72. to 88.** [Amendments]

#### REPEAL

**89.** [Repeal]

#### TRANSITIONAL

##### *Definitions*

**90.** (1) In this section, "Executive Committee" « *bureau* »

"Executive Committee" means the Executive Committee of the Commission, as it existed on the day immediately before the coming into force of section 80;

"former Act" « *loi abrogée* »

"former Act" means the *Broadcasting Act*, chapter B-9 of the Revised Statutes of Canada, 1985.

##### *Pending proceedings*

(2) Any proceedings pending before the Commission or Executive Committee on the day immediately before the coming into force of this subsection shall be taken up and continued before the Commission under and in conformity with this Act.

##### *Continuation of previous orders, etc.*

(3) Every decision, order, rule and regulation issued, rendered or made under the former Act by the Commission or Executive Committee that is in force on the coming into force of this subsection and that is not inconsistent with this Act or any other Act of Parliament shall be deemed to have been issued, rendered or made by the Commission under this Act.

##### *Continuation of directions*

(4) Every direction issued to the Commission by the Governor in Council under the former Act that is in force on the day immediately preceding the coming into force of this subsection and that is not inconsistent with this Act or any other Act of Parliament shall be deemed to have been issued by the Governor in Council under this Act.

#### *Continuation of licences*

(5) Every broadcasting licence authorizing the carrying on of a broadcasting undertaking issued under the former Act and in effect on the day immediately preceding the coming into force of this subsection shall continue in effect for the unexpired portion of its term as if it were a licence authorizing the carrying on of a broadcasting undertaking issued under this Act and may be amended, renewed, suspended or revoked in the manner provided in this Act.

#### *Full-time members of Commission*

**91.** (1) Every person holding office as Chairman, Vice-Chairman or full-time member of the Commission immediately before the coming into force of section 76 shall continue in office and be deemed to have been appointed under section 3 of the *Canadian Radio-television and Telecommunications Commission Act*, as amended by this Act, to hold office for the remainder of the term for which the person had been appointed before the coming into force of section 76.

#### *Part-time members of Commission*

(2) The part-time members of the Commission holding office immediately before the coming into force of section 76 shall cease to hold office on the coming into force of that section.

#### *Directors of Corporation*

**92.** Every person holding office as a director of the Corporation immediately before the coming into force of section 36 shall continue in office and be deemed to have been appointed under that section to hold office for the remainder of the term for which the person had been appointed before the coming into force of that section.

## **COMING INTO FORCE**

#### *Coming into force*

**\*93.** This Act or any provision thereof shall come into force on a day or days to be fixed by order of the Governor in Council.

\* [Note: Act in force June 4, 1991, see SI/91-86.]

## **SCHEDULE**

*(Sections 24, 25 and 30)*

1. Any licence issued pursuant to C.R.T.C. Decision No. 87-140 of February 23, 1987.

2. Any licence issued pursuant to C.R.T.C. Decision No. 88-181 of March 30, 1988.

3. Any licence issued in connection with the operation of any radio or television station owned and operated by the Corporation.

#### **RELATED PROVISION**

-- 1995, c. 29, s. 5:

*Directors cease to hold office*

**5. Notwithstanding subsection 36(5) of the Act, every person who was a director of the Canadian Broadcasting Corporation immediately before the coming into force of section 4 of this Act by reason of that subsection shall cease to hold office on the coming into force of section 4 of this Act.**