



## Broadcasting Decision CRTC 2010-743

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Route reference: 2010-413

Ottawa, 7 October 2010

### **CTV Corp.**

London, Windsor, Barrie, Pembroke and Ottawa, Ontario; Victoria,  
British Columbia

*Application 2010-0703-9, received 26 April 2010*

### **‘A’ stations – Licence amendments**

*The Commission **denies** an application by CTVglobemedia Inc., on behalf of its subsidiary CTV Corp., to reduce the overall minimum level of Canadian programming that must be broadcast by its ‘A’ stations from 60% to 55%, to eliminate exhibition requirements relating to priority programming, and to amend requirements related to the provision of described video.*

### **The application**

1. The Commission received an application by CTVglobemedia Inc., on behalf of its subsidiary CTV Corp (CTV),<sup>1</sup> to amend the broadcasting licences of its television programming undertakings CIVI-TV Victoria, CHWI-TV Windsor, CFPL-TV London, CKVR-TV Barrie, CHRO-TV Pembroke and CHRO-TV-43 Ottawa (collectively, the ‘A’ stations).
2. Specifically, CTV applied:
  - to delete the condition of licence requiring each station to broadcast, at a minimum, in each broadcast year, an average of eight hours per week of Canadian programs in the priority program categories between 7 p.m. and 11 p.m., as well as the expectation that 75% of priority programming be provided by independent producers;
  - to be relieved of the requirement set out in section 4(6) of the *Television Broadcasting Regulations, 1987* that a television licensee shall devote not less than 60% of the broadcast year to Canadian programs. Instead, the licensee

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<sup>1</sup> The application was initially filed by CTVglobemedia Inc., on behalf of its wholly owned subsidiary CTV Limited. However, the licensee is now CTV Corp. following Broadcasting Decision 2010-580, which approved the transfer of the assets of the ‘A’ stations from CTV Limited to CTV Corp.

would operate under a condition of licence stipulating that it devote not less than 55% of the broadcast year to the broadcast of Canadian programs;

- to delete the condition of licence requiring it to broadcast an average of four hours per week of described Canadian priority programs between 7 p.m. and midnight. Instead, the licensee would operate under a condition of licence stipulating that it broadcast an average of four hours per week of described programming. To fulfil this condition, the described programming may be drawn from the following categories:

2(b) long form documentary

7(a) ongoing dramatic series

7(b) ongoing comedy series (sitcoms)

7(c) specials, mini-series or made-for-TV feature films

7(d) theatrical feature films aired on TV

7(e) animated television programs and films

7(g) other drama

9 variety

11 general entertainment and human interest programming targeted to children

- to suspend until the end of the licence term the current requirement that 50% of the required hours of described video be original broadcasts.
3. The applicant further stated that it intends to make best efforts to broadcast and support priority programs and programs of national interest, and that it would also continue to broadcast programming from independent producers. With regard to described video, CTV noted that it was seeking relief only from the requirement that at least 50% of described programming be original and that it would continue to air the required number of hours of described video.
  4. In support of its application CTV argued that it was moving to accelerate the implementation of certain policies already adopted and announced by the Commission in the group-based approach to the licensing of private television services set out in Broadcasting Regulatory Policy 2010-167 (the Policy). It argued that these measures were necessary in order to deal with the difficult financial situation faced by the 'A' stations, which have lost approximately \$98 million since they were acquired by CTV. The applicant noted that a value for signal regime would provide additional revenue, but it was not yet clear when such a regime would come into effect.
  5. CTV cited Broadcasting Decision 2009-537 related to CHCH-TV Hamilton and Broadcasting Decision 2009-699 relating to CHEK-TV Victoria as precedents for its proposals with respect to priority programming and described video. In those decisions, the Commission approved proposals to eliminate priority programming requirements and the expectation that such programming be independently produced,

and deferred the requirement that at least 50% of hours of described video be original until year 4 of the licence term, due to the financial challenges that the stations faced.

## **Interventions**

6. The Commission received interventions opposing and commenting on the CTV application from parties that included
  - individuals;
  - associations and unions, including the Canadian Film and Television Production Association (now the Canadian Media Production Association); the Writers Guild of Canada (WGC); the Documentary Organization of Canada; the Alberta Motion Picture Industries Association; the Communications, Energy and Paperworkers Union of Canada; Seafireglassworks.com; and the Alliance of Canadian Cinema, Television and Radio Artists and the American Association of Musicians; and
  - broadcasters, including Quebecor Media Inc. (QMI), Canwest Television Limited Partnership (Canwest), and Channel Zero.
7. Opposing interveners argued that the approach set out in the Policy is comprehensive and intended to come into effect on 1 September 2011. They submitted that CTV was only seeking to implement certain aspects of the Policy – a reduction in the overall level of Canadian programming and elimination of priority programming – without assuming other aspects, such as a minimum level of spending on Canadian programming and a requirement to broadcast programming of national interest. They argued that the Policy is not intended to apply to particular broadcast services in isolation from their corporate groups.
8. Intervenors further argued that the situation of the ‘A’ stations is not comparable to that of CHCH-TV and CHEK-TV since these are stand-alone, self supporting stations that cannot benefit from synergies associated with multi-station and multi-service groups such as CTV. They also noted that the applicant had not mentioned the Local Programming Improvement Fund as a way to improve the revenues of the ‘A’ stations.
9. QMI argued that CTV was aware of the financial situation of the ‘A’ stations when it acquired them, and that all conventional television stations face similar challenges. Accordingly, QMI, as well as Canwest, submitted that the amendment should apply to all conventional broadcasters in both the English- and French-language markets should the Commission decide to approve this application.
10. For its part, the WGC questioned why CTV is seeking relief from Canadian programming obligations instead of reducing expenditures on U.S. programming.

### Applicant's reply

11. In reply, CTV reiterated that the 'A' stations are in a difficult financial situation, the relief sought is similar to that which has been afforded to CHCH-TV and CHEK-TV, and that elimination of priority programming and a reduction in exhibition requirements for Canadian programming are consistent with the Policy.
12. CTV submitted that both Canwest and QMI are free to file their own applications for regulatory relief if they so desire. It also noted that the Commission had granted reductions in priority programming to QMI's station CKXT-TV Toronto.

### Commission's analysis and determinations

13. The Commission is of the view that the approach set out in the Policy is comprehensive and meant for implementation with the group renewals of the large television broadcasters. It does not consider that it would be appropriate to implement the Policy on a piecemeal basis, for example by approving a reduction in Canadian programming without imposing expenditure requirements as set out in the Policy. Similarly it would not be appropriate to eliminate requirements for priority programming without imposing requirements for programming of national interest as the Policy provides. It is also of the view that it would be unfair to implement aspects of the Policy for some licensees without similar action for competitors.
14. While the Commission has granted flexibility with respect to priority programming and described video for CHCH-TV and CHEK-TV, it notes that these stations are stand-alone operations and not part of a large ownership group. It is further concerned that the proposed changes to CTV's requirements related to described video are inconsistent with the accessibility policy set out in Broadcasting and Telecom Regulatory Policy 2009-430 and would reduce the access of the visually impaired to described Canadian programming.
15. For these reasons, the Commission **denies** the application by CTVglobemedia Inc., on behalf of its subsidiary CTV Corp., to reduce the overall minimum level of Canadian programming that must be broadcast by its 'A' stations from 60% to 55%, to eliminate exhibition requirements relating to priority programming, and to amend requirements related to the provision of described video.

Secretary General

### Related documents

- *Various television programming undertakings – Acquisition of assets (corporate reorganization)*, Broadcasting Decision CRTC 2010-580, 13 August 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010

- *CHEK-TV Victoria and its transmitters – Acquisition of assets*, Broadcasting Decision CRTC 2009-699, 9 November 2009
- *CHCH-TV Hamilton and its transmitters and CHCH-DT Hamilton – Acquisition of assets*, Broadcasting Decision CRTC 2009-537, 28 August 2009
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009