



Broadcasting Decision CRTC 2016-130

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Reference: Part 1 application posted on 9 November 2015

Ottawa, 12 April 2016

ZoomerMedia Limited
Across Canada

Application 2015-1257-5

VisionTV – Licence amendments

*The Commission **approves** an application to delete, consistent with its decision taken in Broadcasting Regulatory Policy 2015-86 to eliminate its genre exclusivity policy, certain nature of service conditions of licence for the national English-language specialty Category A service VisionTV and to add a condition of licence limiting the amount of live professional sports programming that it may broadcast.*

*The Commission **denies** the request to delete VisionTV’s condition of licence requiring it to broadcast at least 387 hours of original Canadian programming each broadcast year.*

Background

1. In Broadcasting Regulatory Policy 2015-86, the Commission stated that it would eliminate its genre exclusivity policy, which limited programming services to offering certain types of programming (that is, a “nature of service”) and precluded other services from offering that programming. Consequently, it no longer enforces conditions of licence relating to nature of service, with certain exceptions, such as the condition of licence relating to the broadcast of live professional sports programming by services other than mainstream sports services.
2. It further stated that licensees must provide the Commission with a name and a brief description of the service, to be listed on the Commission’s website, and update this name and description any time it changes. This will allow both Canadians and the Commission to continue having basic information about the discretionary services in operation.

Application

3. ZoomerMedia Limited (ZoomerMedia) filed an application relating to the national English-language specialty Category A service VisionTV. ZoomerMedia requested the deletion of the following nature of service conditions of licence:¹
 2. (a) The licensee shall provide a national English-language specialty Category A service devoted to interfaith religious programming that is related to, inspired by or arises from persons' spirituality, including related moral or ethical issues.
 - (b) The licensee shall devote at least 75% of its programming to programming drawn from category 4 Religion, as set out in item 6 of Schedule 1 to the *Specialty Services Regulations, 1990*, as amended from time to time.
 - (c) The licensee shall devote at least 45% of the total hours broadcast in any one broadcast year to the exhibition of Cornerstone programming.
6. The licensee shall maintain over the licence term a Mosaic Program Management Group with the terms of reference, membership and mandate set out below and in Appendix 2 of this decision.
7. The licensee shall file a report with the Commission on or before 30 November of each year:
 - (a) describing how VisionTV has reflected, over the 12-month period ending the preceding 31 August, the range of Canadian religious beliefs, including a list of the groups that have purchased Mosaic time and the amount of time each has purchased;
 - (b) providing a breakdown of the Cornerstone and Mosaic programming distributed on VisionTV over the 12-month period ending the preceding 31 August; and
 - (c) providing a description of the membership and activities of the Mosaic Program Management Group over the 12-month period ending the preceding 31 August.
4. Condition of licence 2.(d), which reads as follows, would be retained:

The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.

¹ VisionTV's current conditions of licence are set out in Appendix 1 to Broadcasting Decision 2013-393.

5. The licensee also requested the addition of a condition of licence that would limit the amount of live professional sports programming that could be broadcast on the service to 10% of the programming broadcast each broadcast month.
6. Finally, the licensee requested the deletion of the following condition of licence:
 4. The licensee shall broadcast at least 387 hours of original Canadian programming in each broadcast year.
7. ZoomerMedia stated that the above requests are consistent with the Commission's decisions stemming from its elimination of the genre exclusivity policy.
8. Pursuant to Broadcasting Regulatory Policy 2015-86, the licensee provided the following description for VisionTV:

The licensee shall provide a national English-language discretionary service primarily dedicated to lifestyle, entertainment and multi-faith religious programming.

Intervention

9. The Commission received an intervention commenting on this application from the Canadian Media Production Association (CMPA), to which ZoomerMedia replied. The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.
10. The CMPA opposed ZoomerMedia's request to delete VisionTV's condition of licence requiring that the service broadcast at least 387 hours of original Canadian programming each broadcast year. It submitted that consistent with its position in response to similar applications from other broadcasters,² it opposes this aspect of the application on the basis that this condition of licence is unrelated to VisionTV's genre or nature of service.
11. Further, the CMPA argued that while VisionTV's licensing history may suggest that this condition of licence could be linked to its long-standing obligation to provide Mosaic programming,³ which is tied to its religious programming genre and corresponding nature of service, there is nothing in Broadcasting Decision 2013-393 that would confirm such a connection. It also submitted that this condition of licence exists independent of any obligations or limitations respecting the types, categories or subjects of programming that VisionTV may or must offer.

² These interventions are described in Broadcasting Decisions 2015-549, 2015-550 and 2015-551.

³ Mosaic programming is defined as paid-time denominational presentations produced or acquired at arm's length by various faith groups.

Licensee's reply

12. ZoomerMedia replied that the condition of licence on original Canadian programming is no longer valid in light of the changes introduced by the Commission during the Let's Talk TV proceeding relating to the services to be carried on the basic service.
13. Moreover, ZoomerMedia indicated that VisionTV's condition of licence 2.(b) requires that the service broadcast a minimum amount of category 4 (Religion) programming and that a high percentage of its hours of original Canadian programming are derived from this category (more specifically, from Mosaic programming). In light of the elimination of genre protection and the loss of VisionTV's widespread distribution on the basic service following the amendments made to the *Broadcasting Distribution Regulations*, the licensee argued that VisionTV will need to re-focus its programming to remain competitive and attract subscribers.
14. The licensee also believes that the retention of the condition of licence in question would have unintended detrimental effects on independent Canadian producers who supply VisionTV with Mosaic and Cornerstone⁴ programming. It claimed that under the new regulatory and economic reality, producers of independent Mosaic and Cornerstone programming may not be able to produce as many hours of original Canadian programming each year.
15. Finally, ZoomerMedia argued that this application is not similar to other applications, as alleged by the CMPA, and that none of the vertically integrated companies' Category A services are subject to a condition of licence requiring the broadcast of a minimum number of hours of original Canadian programming each broadcast year.

Commission's analysis and decisions

16. In regard to VisionTV's nature of service conditions of licence, the Commission finds that the amendments, as proposed by ZoomerMedia, are consistent with Broadcasting Regulatory Policy 2015-86 and the Commission's previous determinations regarding similar applications.
17. However, ZoomerMedia's request to delete its condition of licence on original Canadian programming is not consistent with the Commission's transitional approach outlined in Broadcasting Regulatory Policy 2015-86, given that the condition does not specifically pertain to the service's existing genre or nature of service, namely, religious programming. Further, Category A services will continue

⁴ Cornerstone programming is defined as general interfaith programs produced or acquired by the licensee itself.

to benefit from mandatory carriage until the end of their current licence term,⁵ as well as from the programming flexibilities permitted by the above policy. These services will nonetheless continue to be required to contribute more to the system by being subject to more stringent licensing criteria associated with these privileged distribution rights.

18. The Commission is of the view that the amount of original hours of Canadian programming prescribed in the current condition of licence is still achievable since the service is currently broadcasting significantly more hours of original programming than it is required. In addition, it will be easier for the service to meet this condition of licence because it will no longer be bound by a prescriptive nature of service condition of licence, including requirements related to Mosaic programming and other requirements that ZoomerMedia cited in its reply as impediments to meeting the requirements of the original Canadian programming condition of licence going forward. ZoomerMedia should therefore have enough flexibility to adapt its programming strategy to remain competitive with other discretionary services.
19. In light of the above, the Commission **approves** the application by ZoomerMedia Limited to amend the broadcasting licence for the national English-language specialty Category A service VisionTV by deleting conditions of licence 2.(a) through 2.(c), 6, and 7.(a) through 7.(c), and by adding the following **condition of licence**:

The licensee shall devote not more than 10% of the programming broadcast during the broadcast month to live professional sports programming, which falls under program category 6(a) Professional sports.
20. The Commission **denies** the request to delete VisionTV's condition of licence requiring it to broadcast at least 387 hours of original Canadian programming each broadcast year.

Secretary General

Related documents

- *Fashion Television – Licence amendments*, Broadcasting Decision CRTC 2015-551, 11 December 2015
- *MTV2 – Licence amendments*, Broadcasting Decision CRTC 2015-550, 11 December 2015
- *Book Television – Licence amendments*, Broadcasting Decision CRTC 2015-549, 11 December 2015

⁵ VisionTV's licence expires on 31 August 2020.

- *Let's Talk TV – The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *VisionTV – Licence renewal*, Broadcasting Decision CRTC 2013-393, 8 August 2013

**This decision is to be appended to the licence.*