



Broadcasting Decision CRTC 2005-131

Ottawa, 7 April 2005

CTV Television Inc.
Across Canada

*Application 2004-0921-0
Broadcasting Public Notice CRTC 2004-87
15 November 2004*

CTV Newsnet – Licence amendment

*The Commission **approves** an application to amend the broadcasting licence for the national English-language specialty programming undertaking known as CTV Newsnet, in order to amend the licensee's conditions of licence defining its nature of service.*

The licensee is no longer required to operate CTV Newsnet in a 15-minute news wheel. In addition, the licensee may broadcast a limited amount of programming drawn from category 2 (a) (Analysis and interpretation).

Background

1. CTV Television Inc. (CTV) is the licensee of CTV Newsnet, a national, English-language specialty programming undertaking that provides headline news, weather and sports reports, as well as business, consumer and lifestyle information presented in a continuously-updated 15-minute wheel. CTV Newsnet was originally licensed in 1996 following a competitive process.

Nature of service

2. The licensee's original conditions of licence defining its nature of service set out in *CTV NI, Headline News – Approved*, Decision CRTC 96-597, 4 September 1996, authorized the licensee to draw programming exclusively from category 1 (News) and category 3 (Reporting and actualities), as set out in item 6 of Schedule I of the *Specialty Services Regulations, 1990*. The conditions also stated that the licensee must maintain a headline news format as described in its application, presented in a continuously-updated 15-minute news wheel.

3. Following the launch of CTV Newsnet in September 1997, the Commission received complaints alleging that the licensee had broadcast long-form programming on several occasions, thus contravening its nature of service conditions of licence. The Commission initiated a public process to consider the issue¹ and, in *Amendment to the conditions of licence concerning the nature of the specialty services provided by Newsnet and LCN*, Decision CRTC 2001-711, 23 November 2001, amended CTV Newsnet's nature of service conditions of licence. The amended conditions of licence read as follows:
 1. (a) The licensee shall provide a national English-language specialty service and shall draw its programs exclusively from category 1 (News) and category 3 (Reporting and actualities) as set out in item 6 of Schedule I of the *Specialty Services Regulations, 1990*.
 - (b) Subject to 1. (d), the licensee shall maintain a "headline news" format as described in its application presented in a continuously-updated fifteen minute wheel.
 - (c) Subject to 1. (d), in any broadcast week, no fifteen-minute period shall elapse without the broadcast of a headline news segment of a minimum of two minutes duration (excluding commercials). The headline news segment must contain a comprehensive news bulletin that includes such programming elements as news, weather, sports and business reports.
 - (d) The licensee shall be deemed to be in compliance with this condition provided there are no more than 25 occurrences, during any broadcast week, in which more than 15 minutes elapse without the broadcast of a headline news segment, as described in 1. (c). For the purposes of assessing compliance with this requirement, each 15-minute period that elapses without the broadcast of such a headline news segment shall count as a separate occurrence.
 - (e) During any occurrence in which more than 15 minutes elapse without the broadcast of a headline news segment, the licensee must provide an onscreen display of the headline news items.
 - (f) For the purpose of this condition, a "broadcast week" shall be defined as the period of seven consecutive broadcast days, beginning on Sunday.
4. In its subsequent licence renewal application, CTV did not request amendments to CTV Newsnet's nature of service conditions of licence. Therefore, the requirements of CTV Newsnet's existing conditions of licence were maintained in *CTV Newsnet – Licence renewal*, Broadcasting Decision CRTC 2004-8, 21 January 2004, and 2004-8-1, 18 June 2004 (Decision 2004-8), which renewed the licence to 31 August 2010.

¹ Call for comments on a proposed amendment to the conditions of licence describing the nature of the services to be provided by Newsnet and Le Canal Nouvelles, Public Notice CRTC 2001-65, 6 June 2001

5. In Decision 2004-8, the Commission authorized an increase of \$0.06 per subscriber in the service's monthly wholesale rate and, by condition of licence, commencing 20 April 2004, authorized the licensee to charge broadcasting distribution undertakings (BDUs) distributing CTV Newsnet a maximum of \$0.145 per subscriber per month when it is distributed as part of the basic service.

The present application

6. In the present application, the licensee proposed amendments to CTV Newsnet's conditions of licence that define its nature of service. Specifically, CTV requested that the Commission delete conditions of licence 1(b), 1(c), 1(d) and 1(e), which require CTV Newsnet to operate in a 15-minute news wheel. The licensee also requested revisions to condition of licence 1(a) in order to add "headline news" to the description of CTV Newsnet's nature of service, and to add category 2(a) (Analysis and interpretation) to the list of program categories from which it may draw its programming. Category 2(a) programming is defined in *Definitions for new types of priority programs; revisions to the definitions of television content categories; definitions of Canadian dramatic programs that will qualify for time credits towards priority programming requirements*, Public Notice CRTC 1999-205, 23 December 1999.

The licensee's rationale for the application

7. CTV submitted that the restrictions contained in its current nature of service conditions of licence are "operationally onerous". In CTV's view, these restrictions are not practical mechanisms for ensuring that CTV Newsnet continues to operate within the headline news format for which it was licensed.
8. CTV further contended that changes in the broadcasting environment have rendered the 15-minute headline news wheel anachronistic. It stated that the U.S. channel CNN Headline News discontinued the 15-minute news wheel in January 2001 and increased its Canadian viewership by 80% in the following two years. Further, CablePulse24 (formerly known as Pulse 24), the national specialty service devoted to news and information with a focus on southern Ontario and distributed primarily in Ontario, no longer operates in a 15-minute news wheel.
9. According to CTV, headline news means breaking news, not just news presented in a 15-minute news wheel format. CTV argued that the strict news wheel format mandated by its conditions of licence restricts the amount of breaking, live form news that CTV Newsnet may broadcast and, consequently, impedes its ability to compete with U.S. news services such as CNN Headline News and its sister channel, Cable News Network (CNN).
10. CTV stated that section 3(1)(s)(ii) of the *Broadcasting Act* stipulates that programming undertakings should be "responsive to the evolving demands of the public". However, in the licensee's view, CTV Newsnet's current conditions of licence prevent it from evolving its service to meet its viewers' needs. In this regard, CTV noted that, even though the original application for the CablePulse24 news service indicated that it would

operate in a 15-minute “newsflow” wheel, the Commission did not impose a condition of licence requiring the licensee to operate in a 15-minute news wheel². Accordingly, CTV submitted that CablePulse24 enjoys more flexibility to evolve its service than CTV Newsnet does.

11. CTV argued that the reference to “headline news” in the proposed conditions of licence would ensure that the definition of CTV Newsnet’s nature of service is sufficiently specific to guarantee that it continues to operate within its mandate to provide a headline news service. The licensee also maintained that the proposed amendments were not contrary to the Commission’s policy that an analog specialty service or Category 1 specialty service not be directly competitive with another analog specialty or Category 1 specialty service in the type of programming it provides.
12. With respect to its request for authority to broadcast programming drawn from category 2(a), CTV maintained that editors and journalists need more flexibility and editorial independence to choose how best to deliver the content of the headlines based on the newsworthiness of the stories themselves, rather than on the dictates of a 15-minute news wheel.
13. In support of its application, CTV also stated that a decline in viewers aged 25 to 54 years has had a negative impact on the advertising revenues generated by CTV Newsnet since April 2004. CTV indicated that CTV Newsnet’s advertising revenues for the financial quarter ending 30 September 2004 were 13% lower than those reported in the same quarter in 2003. CTV added that it expects this decline in advertising revenues to continue and emphasized that it needs to find more effective ways to attract and retain viewers.

Interventions

14. The Commission received over 1,250 interventions in connection with this application. The vast majority of the interveners supported the proposed amendments to CTV Newsnet’s conditions of licence. The Canadian Cable Telecommunications Association supported the application contingent upon the licensee carrying out its programming changes without seeking an increase in its monthly wholesale rate. Global Television Network Inc. (Global) and the Canadian Broadcasting Corporation (CBC), in its capacity as the licensee of Newsworld, opposed the application.
15. Global and the CBC expressed concern that the deletion of conditions of licence 1(b), 1(c), 1(d) and 1(e) would represent a fundamental change in CTV Newsnet’s nature of service that would lead to its changing from a headline news service to a general news service. Global took issue with CTV’s claim that the inclusion of “headline news” in the nature of service conditions of licence would ensure an adequate protection of

² The Commission originally licensed this service in *Pulse 24 – Approved*, Decision CRTC 96-609, 4 September 1996. In *CablePulse24 – Licence renewal*, Broadcasting Decision CRTC 2004-21, 21 January 2004, the Commission renewed the licence to 31 August 2010.

CTV Newsnet's headline news format. In Global's view, without a more restrictive definition of the nature of service, CTV Newsnet's programming format would be relaxed and it would ultimately evolve into a service that would substantially differ from its present headline news format.

16. Both opposing interveners argued that CTV's request for authority to offer programming drawn from category 2(a) without any restriction on the amount of such programming to be broadcast by CTV Newsnet called into question the licensee's commitment to continuing to provide an authentic headline news service.
17. Global stated that, at present, CTV Newsnet is "highly differentiated" from other services in the Canadian broadcasting system because there is no other English-language Canadian news service that operates in a 15-minute wheel format. In Global's view, CTV Newsnet's niche headline news format already protects it from "foreign incursion".
18. Global submitted that the increase in CTV Newsnet's monthly wholesale rate approved in Decision 2004-8 was not predicated on the abandonment of the 15-minute news wheel format and the concurrent addition of a new program category. The intervener argued that, if the present application were to be approved, the Commission should require CTV to ensure that the revenues generated from the recent increase in CTV Newsnet's monthly wholesale rate would not be allocated to new initiatives arising from these amendments.
19. The CBC noted that, in CTV's original application for a broadcasting licence, it proposed to operate an analog specialty service in a headline news format, and that, in accordance with the Commission's one-per-genre policy, no other Canadian broadcaster is permitted to obtain a licence to operate an analog or Category 1 specialty service in the same headline news format. In the CBC's view, the present application is essentially a request to provide a new Canadian specialty news service with a breaking news component, and is inconsistent with the Commission's policy. The CBC maintained that CTV should not be permitted to use the current public process to obtain authority to offer a new niche news service for analog distribution. However, the CBC contended that, if the Commission were to approve the present application, it should also issue a call for a new headline news service for analog distribution to replace the headline news niche vacated by CTV Newsnet.

The licensee's response

20. CTV suggested that Global and the CBC misinterpreted its request for greater flexibility in its program format as a request to change from its headline news format. CTV maintained that it proposed the deletion of certain restrictions in its conditions of licence in order to provide an enhanced headline news service that meets its viewers' needs. CTV contended that CTV Newsnet should be granted the same flexibility as is enjoyed by every other English-language news service available to Canadians to adjust its programming format in order to make its service more attractive and relevant to viewers.

21. CTV reiterated that a 15-minute wheel format is not a pre-requisite for a headline news service. It noted that neither Global nor the CBC filed complaints, or called for the deletion of CNN Headline News from the Commission's lists of eligible satellite services when that U.S. headline news channel changed its programming format from one that operated in a 15-minute news wheel to one that broadcasts breaking news. CTV argued that impeding CTV Newsnet from similarly evolving its programming format to increase its viewership would be tantamount to subjecting a Canadian service to a different standard.
22. CTV maintained that one of its primary reasons for seeking to adjust CTV Newsnet's programming format is to better position the service to compete with U.S. news channels. It stated that U.S. news channels, notably CNN, currently attract more Canadian viewers than Newsworld and CTV Newsnet combined, and added that, given Fox News' popularity with American audiences, this U.S. news channel will likely draw a substantial audience in Canada as it gains distribution in this country³. According to CTV, many Canadians choose to watch a U.S. news service because CTV Newsnet's strict headline format impedes it from providing news programming that responds to their needs and preferences. CTV argued that, if it is going to be successful in recovering and maintaining those Canadian viewers, it needs the flexibility to offer better coverage, without interruptions, and to broadcast updates on breaking news throughout the broadcast day at appropriate moments.
23. CTV submitted that the CBC's claim that the present application is an attempt to create a new specialty service is unfounded. CTV alleged that the CBC's comments seem to be designed to support the intervener's own wish to file an application for a broadcasting licence to operate a new headline news service.
24. With respect to Global's comments regarding the increase in CTV Newsnet's monthly wholesale rate authorized in Decision 2004-8, CTV stated that this request had been made two years ago because CTV Newsnet faced significant challenges and needed more revenue to improve the quality of its service. CTV noted that it was only granted half of the rate increase that it had requested in its licence renewal application and added that changes in channel placement by two major distributors have exacerbated the challenges currently facing CTV Newsnet.
25. Nevertheless, in response to the concerns raised by Global and the CBC, and to demonstrate its commitment to maintain CTV Newsnet's headline news format, CTV proposed refinements to its requested conditions of licence amendments. Specifically, CTV proposed that condition of licence 1(a) read as follows:

³ In *Revised lists of eligible satellite services*, Broadcasting Public Notice CRTC 2004-88, 18 November 2004, the Commission approved the addition of Fox News to the Commission's lists of eligible satellite services for distribution on a digital basis.

The licensee shall provide a national English-language television specialty service, which shall be restricted to the provision of headline news, and which shall have as its mandate the constant reporting and updating of breaking news and current events throughout the day. "Headline news" means frequent and ongoing coverage of immediate and current events and their context which are of interest to Canadians; which are directly relevant to the current broadcast day; and includes news from within Canada as well as coverage of news and events from around the world from a Canadian perspective.

26. While CTV contended that programming drawn from category 2(a) is essential to explaining and providing context for breaking news stories, and that the amount of such programming to be broadcast by CTV Newsnet should be determined by news editors and by the stories in the headlines themselves, the licensee indicated its willingness to accept a condition of licence limiting the amount of category 2(a) programs broadcast by CTV Newsnet to 12% of the broadcast week, and stipulating that all such programs must be related to headline news.

The Commission's analysis and determination

27. The Commission's policy with respect to the licensing of analog and Category 1 specialty services has been, and continues to be, that any such service may not be directly competitive with other analog or Category 1 specialty services in the type of programming it provides.
28. In the present case, the Commission notes that CTV Newsnet was originally licensed in 1996 following a competitive process. It was licensed to provide a national headline news service that would be distinct from and complementary to the long-form news service provided by Newsworld. The 15-minute news wheel format formed part of CTV Newsnet's original application, and the licensee was required to maintain that format as a condition of licence. In 2001, the Commission, in response to complaints, imposed CTV Newsnet's current nature of service conditions of licence, including the 15-minute news wheel requirement. At the same time, the Commission allowed up to 25 departures from the format in each broadcast week.
29. Since 2001, developments in the broadcasting environment have resulted in an evolution in headline news services. The U.S. headline news channel, CNN Headline News, which is available to nearly all Canadian BDU subscribers, no longer operates in a 15-minute news wheel. While it is not mandated to provide a headline news service, CablePulse24 originally operated in a 15-minute news wheel, but has also discontinued that format. Furthermore, virtually all news services now provide viewers with the latest headline news in an alphanumeric display that runs at the bottom of the screen during the presentation of other news programming.

30. The Commission considers that its policy, which in this case calls for CTV Newsnet not be directly competitive with other Canadian specialty news services, needs to be applied in the context of the current dynamic broadcasting environment. The Commission is persuaded by CTV's arguments that in order to attract and retain viewers in that environment, in which there is increased Canadian viewing to foreign news sources also available to most Canadian BDU subscribers, CTV Newsnet needs the flexibility to be able, if it chooses, to broadcast breaking news without having to revert to a two-minute headline news segment every quarter hour.
31. The Commission considers that the revised definition of CTV Newsnet's nature of service proposed by CTV in its response to the opposing interveners is sufficiently focused to ensure that CTV Newsnet does not deviate from its headline news format. In the Commission's view, the proposed nature of service definition will ensure that CTV Newsnet continues to offer a headline news service that is distinct and complementary to the diverse news and information service offered by Newsworld.
32. The Commission finds that the addition of a limited amount of programming drawn from category 2(a) will not significantly alter the essence of CTV Newsnet's nature of service provided that the programs are consistent with the service's licensed mandate to provide a headline news service. The Commission considers that CTV's commitment to limit the amount of programming drawn from category 2(a) to 12% of the broadcast week is appropriate.
33. In light of the above, the Commission **approves** the application by CTV Television Inc. to amend the broadcasting licence for the national English-language specialty programming undertaking known as CTV Newsnet, and replaces the licensee's current conditions of licence 1(a) to 1(f) defining its nature of service with the following conditions of licence:
 1. (a) The licensee shall provide a national English-language specialty programming undertaking, which shall be restricted to the provision of headline news, and which shall have as its mandate the constant reporting and updating of breaking news and current events throughout the day. "Headline news" means frequent and ongoing coverage of immediate and current events and their context that are of interest to Canadians; which are directly relevant to the current broadcast day; and includes news from within Canada as well as coverage of news and events from around the world from a Canadian perspective.
 - (b) The licensee shall draw its programming exclusively from the following categories, as set out in section 6 of Schedule I of the *Specialty Services Regulations, 1990*, as amended from time to time.

1 News

2 (a) Analysis and interpretation

3 Reporting and actualities

12 Interstitials

13 Public service announcements

14 Infomercials, promotional and corporate videos

(c) Not more than 12% of all programming broadcast during the broadcast week shall be drawn from category 2(a). All such programs must be related to headline news.

(d) For the purpose of this condition, a “broadcast week” shall be defined as the period of seven consecutive broadcast days, beginning on Sunday.

34. The Commission reminds CTV of the expectation set out in Decision 2004-8 that the incremental revenues resulting from the increase in the monthly wholesale rate authorized in that decision will be spent on new programming improvements and on maintaining programming enhancements that contribute to CTV Newsnet’s mandate as a national headline news service.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>