



Broadcasting Decision CRTC 2005-445

Ottawa, 31 August 2005

Aboriginal Peoples Television Network Incorporated Across Canada

Application 2004-1036-6

Public Hearing at Niagara Falls, Ontario

6 June 2005

Aboriginal Peoples Television Network – Licence renewal

*The Commission **renews** the broadcasting licence for the satellite-to-cable programming undertaking known as the Aboriginal Peoples Television Network from 1 September 2005 to 31 August 2012. The Commission also **approves** the licensee's request to increase its wholesale rate by \$0.10 to a maximum of \$0.25 per subscriber per month.*

The application

1. The Commission received an application by Aboriginal Peoples Television Network Incorporated (APTN) to renew the broadcasting licence for its satellite-to-cable programming undertaking and its transmitters listed in Appendix A to this decision.
2. In its application, APTN proposed several improvements to its service. These include an increase in the amount of Canadian programming from 70% to 75%, the addition of appropriate regional programming, increased production of Aboriginal- and French-language programming, more high quality programming in such areas as drama, movies-of-the-week and news/current affairs programming, the payment of higher licence fees to independent producers, versioning of programs into more than one language, and more funds directed towards program development.
3. APTN also outlined plans to improve the service through the distribution of its programming using three distinct feeds (Northern, Eastern and Western) in place of its current Northern and Southern feeds. The licensee claimed that the proposed Eastern and Western feeds would allow APTN to deliver regional programming, especially Aboriginal-language programming, to those areas for which it is most relevant. It noted that the time-shifted Eastern and Western feeds would also help to overcome the inherent scheduling limitations associated with attempting to serve all time zones across the country using a single, national feed.

4. As a further improvement, APTN proposed to concentrate on providing adequate promotion for its service to ensure that Canadians are made aware of the quality and breadth of programming on the network.
5. APTN stated that these improvements to the service would necessitate an increase of \$0.10 in the regulated monthly wholesale rate paid by broadcasting distribution undertakings (BDUs) for the distribution of APTN as part of the basic service, rising from the current rate of \$0.15 to a new rate of \$0.25.

Background

6. APTN is a not-for-profit charitable organization with a 21-member Board of Directors drawn from all regions of the country. As an element of the Canadian broadcasting system, APTN plays an essential role in “the maintenance and enhancement of national identity and cultural sovereignty” and in helping to ensure achievement of the objective set out in the *Broadcasting Act* (the Act) that the Canadian broadcasting system should “safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada.”
7. APTN’s original application for a licence to operate a national Aboriginal programming network was approved by the Commission in Decision CRTC 99-42, 22 February 1999. The Commission’s approval was based on its determination that the proposed station would bring a number of benefits to both Aboriginal and non-Aboriginal viewers. The strengths of the application, as noted by the Commission, included APTN’s clear and significant commitments to “offer a high-quality, general interest television service with a broad range of programming that reflects the diverse perspectives of Aboriginal peoples, their lives and cultures,” and its willingness to “provide a much-needed, positive window on Aboriginal life for all Canadians, whether living in the North or in the South.”
8. On the same date, in *Call for comments on a proposed Order respecting the distribution of the Aboriginal Peoples Television Network*, Public Notice CRTC 1999-31, 22 February 1999, the Commission invited public comment on its proposal to issue an order, pursuant to section 9(1)(h) of the Act, requiring direct-to-home (DTH) BDUs and Class 1 and Class 2 BDUs, including multipoint distribution system (MDS) BDUs, to distribute APTN as part of the basic service. Following its consideration of comments received in response to its notice, the Commission issued such an order (*Order respecting the distribution of the Aboriginal Peoples Television Network*, Public Notice 1999-70, 21 April 1999 (Public Notice 1999-70)).

Past performance

9. In its original licence application, APTN had proposed a service that would be “programmed predominantly by Aboriginal peoples and... reflect their concerns and the diversity within their cultures.” According to APTN, the service was to consist of a broad range of programming targeted to a variety of age groups and interests, provide a new perspective on news and information, concentrate on under-represented categories of Canadian programming such as dramatic series, music/dance, and variety programs, and include programming in English, French and up to 15 different Aboriginal languages.
10. The Commission has reviewed the licensee’s performance during its first licence term, and is satisfied that APTN has adhered to the conditions currently attached to its licence. In most areas, the licensee has also met or exceeded the specific minimum quantitative targets set by the Commission as expectations. For a period early in its licence term, APTN’s performance did fall short of the expectation that the licensee adhere to its commitment to offer a minimum of 18 hours of French-language programming each week. APTN aired only 5 hours per week of French-language programming in the 1999-2000 broadcast year and 17 hours in 2000-2001. The licensee did, however, exceed the minimum level of 18 hours per week in each year thereafter. APTN explained that, during the initial stage of its licence term, it was unable to meet its commitment because of the “extremely limited inventory of available shelf product.”
11. APTN noted that, as Canada’s only Aboriginal television broadcaster, it has become “a magnet for Aboriginal talent from all regions of the country” and has served as a key vehicle for the production and broadcast of programming reflecting the Aboriginal community. It has also been responsible for the production and broadcast of significant amounts of Canadian programming in all genres. APTN stated that, through its program licensing arrangements, it has nurtured the emergence of a new independent program production sector in this country, and that many of the small, independent Aboriginal production companies would probably not exist today were it not for APTN’s support. APTN noted that it has also provided training and mentorship opportunities for Aboriginal youth interested in production careers, additional economic and employment opportunities in the broadcasting industry for all Aboriginal peoples, and many “community sponsorships and partnerships to ensure that awareness of the network continues to grow.”
12. The Commission recognizes the challenges that APTN has faced in its first licence term and commends the licensee on its achievements in fulfilling its important mandate to provide a high quality television service with a broad range of programming reflecting the diverse perspectives of Aboriginal peoples, their lives and cultures.

13. The Commission received over 300 interventions addressed to APTN's renewal application, and all have been taken into account by the Commission in its deliberations. Although the vast majority of the interventions supported renewal of APTN's broadcasting licence, two expressed opposition. Seventeen interveners commented on various aspects of the application. Many of those comments were made by licensees of cable and satellite BDUs, and related to the proposed rate increase and matters concerning the distribution of the service.

Proposed rate increase

The licensee's rationale for the proposed rate increase

14. As mentioned above, the licensee proposed an increase in the wholesale rate paid by BDUs for distribution of APTN as part of the basic service from \$0.15 to a new level of \$0.25 per subscriber per month. According to the licensee, the proposed \$0.10 rate increase is necessary if APTN is to continue to fulfil its mandate and to improve its operations.
15. The licensee stated that the incremental revenues generated by the proposed rate increase, combined with monies to be realized through advertising revenues and the introduction of various operational economies and efficiencies, would be applied to meet the following budget expenditures:
 - \$59.9 million in new programming projects;
 - \$12.4 million in technical improvements; and
 - \$13.0 million in audience research, promotion, sales and advertising.
16. The licensee explained that the new programming would be in a number of different genres. These plans are discussed in more detail in later sections of this decision that deal with the licensee's general programming commitments, its plans for priority programming, and its plans for regional reflection.
17. The licensee also noted a number of technical improvements that the rate increase would help to support, including a proposal to split its existing Southern feed into separate Eastern and Western feeds, and to provide a certain amount of distinct regional programming on each. The rate increase would also enable the introduction of subtitling and secondary audio programming (SAP) technology to deliver described video services to persons who are blind or whose vision is impaired and to increase the accessibility of Aboriginal-language programming to non-Aboriginal speaking audiences.
18. As for the audience research proposed by the licensee, APTN noted that a greater amount of such research was needed to verify the level of tuning to its service by its primary audience across Canada. APTN argued that a majority of the Aboriginal population lives on reserves or north of the 60th parallel where no meters or diaries are distributed by

either BBM Canada or Nielsen Media Research. According to the licensee, it is highly likely that no Aboriginal persons are included in any of the current media measurement samples, and that the audience data reported by both BBM Canada and Nielsen Media Research should be viewed as significant underestimates of the viewing levels to APTN.

19. The licensee also proposed to devote a portion of the proposed rate increase to incremental expenditures to promote the service to potential viewers and to advertisers.

Interventions

20. The Canadian Cable Telecommunications Association (CCTA) opposed the proposed rate increase. According to the intervener, APTN failed to provide sufficiently detailed information regarding the nature of the programming it proposed to develop and produce with the incremental revenue that would be generated by the rate increase. Further, it claimed that the proposed rate increase would generate surplus funds that have not been justified.
21. The CCTA proposed that, if the Commission was to approve any rate increase, it should indicate in its decision that it would be prepared to approve applications by those Class 1 cable operators whose basic rates continue to be regulated for increases in the pass-through portion of their basic fee in accordance with sections 53 and 54 of the *Broadcasting Distribution Regulations*. The CCTA also requested that any rate increase be phased in to coincide with the timing of the licensee's proposed expenditures.
22. Canadian Cable Systems Alliance Inc. (CCSA) opposed implementation of any rate increase in communities where the APTN service is distributed as part of the basic service. CCSA considered the proposed rate increase to be excessive, given APTN's carriage as part of the basic service and in the absence of evidence demonstrating economic need. CCSA added that, if the Commission was to approve the requested rate increase, it should also re-examine APTN's mandatory carriage status.
23. MTS Allstream Inc. submitted that more than 65% of the proposed rate increase was inappropriate, particularly in the case of BDUs that distribute programming on a digital basis only, or that distribute APTN on a channel number below those used for the distribution of discretionary, pay and pay-per-view services. MTS Allstream Inc. added that, in such cases, the low channel placement of APTN on the cable dial ensures APTN's ability to draw a large audience, thereby triggering the funding required to produce higher quality drama programming.
24. Star Choice Television Network Incorporated. (Star Choice) and Bell ExpressVu Limited Partnership¹ (Bell Express Vu) also opposed the proposed rate increase. Star Choice noted that APTN did not describe the specific programming projects it would undertake, but only indicated that it would seek proposals for new productions in certain program categories. According to Star Choice, the rate increase should only be directed to

¹ Bell ExpressVu Inc. (the general partner), and BCE Inc. and 4119649 Canada Inc. (the partners in BCE Holdings G.P., a general partnership that is the limited partner), carrying on business as Bell ExpressVu Limited Partnership

incremental programming expenditures. Bell ExpressVu noted that APTN's performance in attracting national advertising has fallen short of its potential, and submitted that APTN's strong audience ratings should enable the licensee to negotiate better arrangements with its advertisers. Both interveners expressed concern regarding the adverse consumer impact of excessive basic service fees.

Licensee's reply

25. APTN submitted that the information filed with its application concerning its proposed programming expenditures was sufficient to substantiate its requested rate increase. It added that the incremental technical expenditures it has proposed were essential to its plans to improve service to all regions of Canada, and that the proposed expenditures on promotion, sales and advertising were also needed to raise awareness of APTN among Canadians and to increase advertisers' perception that the service represents a good media buy.
26. According to APTN, its proposed wholesale rate of \$0.25 would equal the median wholesale rate charged by English- and French-language analog specialty services whose rates are regulated, and would, in fact, be \$0.09 less than the average wholesale rate of \$0.34 charged by these services. APTN also stated that it has greater regulatory obligations than many of these specialty services since its programming must cover a larger range of programming categories.
27. APTN stated that its proposed promotion, sales and advertising expenditures should ensure that its advertising revenues increase over the next licence term. Regarding these proposed non-programming expenditures, it noted that, in decisions issued in recent years, the Commission has approved increases in the wholesale rates charged by both Canadian Public Affairs Channel Inc. and Vision TV: Canada's Faith Network/Réseau religieux canadien in respect of proposed technical, promotional and administrative expenditures (*Licence renewal for CPAC; and issuance of a distribution order*, Broadcasting Decision CRTC 2002-377, 19 November 2002, and *VisionTV – Licence renewal*, Broadcasting Decision CRTC 2004-397, 31 August 2004).
28. APTN also noted that the monthly fees charged by Class 1 and Class 2 BDUs for basic service have increased significantly in recent years to a current average of \$21.75 per subscriber, due in part to the addition of several new specialty services. APTN argued that its proposed rate increase of \$0.10 would represent less than 0.5% of this amount, and should thus have a negligible impact on the affordability of basic service or on the competitiveness of BDUs.

Commission's analysis and determination

29. The Commission notes the licensee's plans to use portions of the revenues it would earn from its proposed rate increase to add news bureaus in the Yukon, Nunavut and the Prairie region, while other amounts would be allocated to the provision of increased programming in Aboriginal languages and increased priority programming. The Commission is satisfied that these programming-related expenditures are in line with

APTN's mandate and would result in a significantly enhanced service to Canadians. The Commission considers that the proposed expenditures related to the introduction of SAP technology and of the separate Eastern and Western feeds would also provide an improved service to APTN's viewers.

30. The Commission has considered the licensee's arguments regarding the need for specific audience research, and is of the view that an investment in research targeting APTN's specific audience would be useful in producing more accurate tools to assess APTN's audience achievement.
31. In light of the uniqueness of APTN's programming and of the service as a whole, and of the fact that APTN is often distributed on channels having high numbers, the Commission considers it reasonable that the licensee be permitted a rate increase for the purpose of promoting its programming and its service to viewers. However, the Commission does not consider it appropriate that APTN devote any portion of the proposed rate increase to promotional activities related to advertisers. Accordingly, the Commission rejects APTN's plans to allocate a portion of the rate increase to fund promotional activities directed to advertisers, and expects APTN to redirect that portion to the funding of promotional activities directed to viewers or to original Canadian programming.
32. The Commission is of the view that the proposed rate increase will provide APTN with the additional resources it requires to improve its valuable service to Aboriginal Canadians and to all viewers who have an interest in Aboriginal television. Accordingly, the Commission **approves** the licensee's request and authorizes APTN to charge BDUs a maximum monthly wholesale fee of \$0.25 per subscriber. A **condition of licence** to this effect is set out in Appendix B to this decision.
33. The Commission requires the licensee to file annual reports demonstrating how the incremental revenues associated with the approved rate increase of \$0.10 are directed towards its proposed initiatives, as modified by the Commission's expectation regarding funding to promote APTN's programming and its service to viewers. Adherence to this requirement is set out in Appendix B to this decision as a **condition of licence**. With respect to the licensee's plans to use a further portion of the proposed rate increase for specific audience research, the Commission expects APTN to fund audience research and sampling designed to gauge as accurately as possible the level of viewing to the service by its primary target audience as well as by Canadians as a whole.

Carriage of APTN

34. Currently, APTN uses two distinct satellite feeds, both of which are carried on the C-band of Anik F1. BDUs that distribute APTN obtain the signal from the principal feed (APTN-South). The second feed (APTN-North) is used to deliver APTN's service to its network of low-power transmitters in Northern Canada. APTN provides an average of 15 hours per week of distinct regional programming on APTN-North and has stated that it plans to continue this practice in the next licence term.

35. In its application, APTN proposed to replace its single Southern feed by separate Eastern and Western feeds within the first two years of its next licence term. APTN proposed that, initially, and for the most part, the Western feed would broadcast the same programming as the Eastern feed, but with a two- or three-hour time delay. APTN stated, however, that by the end of the seventh year of its new licence term, it would provide up to four hours per week of distinct regional programming on each of the Western and Eastern feeds. APTN indicated that the split feed would allow it to provide regional programming, especially Aboriginal-language programming, to those areas for which it is most relevant, and would help overcome the scheduling limitations that arise from attempting to serve all time zones across the country using one national feed.
36. When APTN was asked to clarify its expectations with respect to the distribution of its proposed Eastern and Western feeds, APTN stated that it would expect terrestrial BDUs (i.e., Class 1 and Class 2 BDUs, including MDS BDUs) that are obliged to distribute APTN's service under the order contained in Public Notice 1999-70 to distribute either the Eastern or Western feed of the service, depending on the location of the subscriber. Such BDUs serving communities in the Central time zone westward would be required to distribute the Western feed, while BDUs serving communities located in the Eastern time zone eastward would be required to distribute the Eastern feed.
37. APTN stated that DTH BDUs should likewise be required to make available to subscribers, as part of their basic service, either the Eastern or the Western feed of APTN, depending on the location of the subscriber. In addition, APTN argued that it would be appropriate for the Commission to make the carriage of both the Eastern and the Western feed of APTN's service by the two national DTH BDUs a mandatory requirement, since both undertakings appear to have adequate satellite capacity. APTN nevertheless indicated that, if the national DTH BDUs had concerns about satellite capacity, they should be given the opportunity to apply to the Commission for relief from the obligation to distribute both the Eastern and the Western feed.

Interventions

38. Both Star Choice and Bell ExpressVu opposed APTN's proposal that national DTH BDUs be required to distribute both the Eastern and the Western feed. They argued that their satellite capacity is already limited as a consequence of existing DTH carriage obligations, and will become more so as a consequence of the future introduction of high definition (HD) and other new services. Star Choice added that mandatory carriage obligations have already compelled it to reduce its pay-per-view offering, thereby placing it at a competitive disadvantage in relation to cable BDUs. It also pointed out that the mandatory distribution of two separate feeds has not been required in the case of any specialty service. According to Star Choice, "While APTN serves an important public interest objective within the Canadian broadcasting system, we do not, with respect, believe that fulfillment of the objective requires the dedication of an additional satellite channel to the carriage of a highly duplicative, time-shifted feed of the service."

Licensee's reply

39. Noting that both Star Choice and Bell ExpressVu allocate a substantial portion of their capacity to pay-per-view channels and time-shifted, duplicate conventional television services, APTN questioned whether the broadcasting objectives of the Act are better fulfilled by the carriage of such programming in place of APTN's regional feeds.
40. APTN emphasized that its proposal would allow DTH BDUs to apply to the Commission to be relieved of the obligation to distribute both the Eastern and the Western feed. APTN added, however, that the onus should rest with the DTH BDUs to establish for the Commission and the public, on the basis of concrete evidence, that they lack sufficient satellite capacity to accommodate both feeds. In this regard, APTN argued that neither Bell ExpressVu nor Star Choice offered supporting evidence for their claim that DTH satellite capacity will not be available to carry both the Eastern and the Western feed of APTN's service.
41. According to APTN, provision could be made to ensure that the analysis of the satellite capacity of the national DTH BDUs takes into full account any technical or regulatory changes that occur in the two-year period leading up to its proposed introduction of separate Western and Eastern feeds. The licensee stated that its proposal would also allow Star Choice and Bell ExpressVu to enter into discussions with APTN for the purpose of examining alternative distribution arrangements for dedicated Eastern or Western programming, such as the use of partial channels. APTN indicated that it would be prepared to consider such alternatives if it is satisfied that sufficient satellite resources are unavailable, and if the use of a partial channel would make APTN's distinctive regional programming and prime-time line-ups more accessible to their intended audiences. APTN argued, however, that the DTH BDUs would need an incentive to enter into good faith discussions with APTN.

Commission's analysis and determination

42. The Commission notes that, under APTN's proposal, the separate Eastern and Western feeds would both be made available to BDUs for distribution at their discretion. In the circumstances, the Commission does not consider it necessary to amend the order contained in Public Notice 1999-70 to specify which feed should be carried. Instead, the Commission would generally expect terrestrial BDUs to distribute the feed having the greater relevance to their subscribers.
43. With respect to APTN's request that the two national DTH BDUs be required, by mandatory order, to distribute both the Eastern and the Western feed, the Commission notes that it has issued mandatory orders under section 9(1)(h) of the Act only in those exceptional circumstances where it was satisfied that such an order would result in a clear contribution to the attainment of the objectives of the Act. In the present case, the Commission is not convinced that there would be sufficient incremental contribution to the attainment of the objectives of the Act to warrant the issuance of an order under section 9(1)(h) that would require DTH BDUs to distribute both feeds. Rather, the Commission considers that these objectives are largely met by the availability of one feed

to DTH subscribers. In this context, the Commission notes that, while each of the proposed feeds may provide up to four hours per week of programming that would be unique to that feed, the bulk of the programming will be the same on both feeds.

44. Further, as noted in *Introductory statement to Broadcasting Decisions CRTC 2004-129 and 2004-130, which renew the licences of the ExpressVu and Star Choice direct-to-home satellite distribution undertakings*, Broadcasting Public Notice CRTC 2004-19, 31 March 2004 (Public Notice 2004-19):

...there is a limit to the capacity available on Canadian satellites for the delivery of DTH services. While digital compression allows the DTH licensees to make efficient use of the capacity available to them, their current capacity is insufficient to distribute all programming undertakings that might seek distribution. Further, the Commission considers that demands on DTH capacity are likely to increase over the next licence term with the licensing of high definition services, which currently use approximately five times as much capacity as standard definition services.

45. In light of the above, the Commission considers inappropriate APTN's proposal that national DTH BDUs be required, by mandatory order, to distribute both the Eastern and the Western feed of APTN. While they will thus continue to be required to distribute only one APTN feed, the Commission encourages the national DTH BDUs to make both feeds available, or, if this is not feasible, to explore with APTN the use of a partial channel to make available the distinctive programming that will be offered on APTN's second feed.

General programming commitments

46. During the first licence term, it was APTN's commitment to devote 30 hours each broadcast week to programming in up to 15 different Aboriginal languages. It has committed to increase this amount to 35 hours per broadcast week by the end of the next licence term. It has also committed to spend a minimum of \$800,000 in each year of the new licence term on programs originally produced in an Aboriginal language. This spending would include \$400,000 for regionally produced programs and \$400,000 for programming especially important to Aboriginal language learning and reinforcement, such as children's programming. APTN indicated that this spending would help it to increase the quality of Aboriginal-language programming and to meet its commitment to broadcast 35 hours of such programming in each broadcast week.
47. For the next licence term, APTN has committed to increase its Canadian content levels from 70% to 75% in each broadcast year and during the evening broadcast period. APTN also committed to continue to provide 18 hours of French-language programming each broadcast week, increasing to a minimum of 20 hours of such programming per broadcast week by the end of the licence term. These additional two hours would consist of programming series, feature films or made-for-television movies.

Commission's analysis and determination

48. The Commission considers that APTN's commitment to increase its Canadian content level to 75% in each broadcast year and evening broadcast period is appropriate. A **condition of licence** to this effect is set out in Appendix B to this decision.
49. The Commission is also satisfied that APTN's programming plans strike an appropriate and relevant balance with respect to serving the needs of Aboriginal people, including the First Nations, Inuit and Metis in all regions of the country. Consistent with the licensee's commitment, the Commission requires APTN to devote a minimum of 30 hours in each broadcast week to Aboriginal-language programming, and to increase this amount to 35 hours per broadcast week by the end of the new licence term. A **condition of licence** to this effect is set out in Appendix B to this decision. The Commission expects APTN to ensure that such programming is in a minimum of 15 different Aboriginal languages.
50. The Commission expects APTN to adhere to its commitment to spend a minimum of \$800,000 in each broadcast year, throughout the new licence term, on programs originally produced in an Aboriginal language.
51. Further, the Commission requires the licensee to adhere to its commitment to provide 18 hours of French-language programming each broadcast week, increasing to a minimum of 20 hours of such programming in each broadcast week by the end of the licence term. A **condition of licence** to this effect is set out in Appendix B to this decision.

Priority programming

52. In its application, APTN committed to broadcast a minimum average of six hours of Canadian programs drawn from the priority program categories between the hours of 7:00 p.m. and 11:00 p.m. in each broadcast week during the first year of the new licence term. This amount would increase to a minimum of seven hours in each broadcast week during the second year, and a minimum of eight hours in each broadcast week thereafter and for the remainder of the licence term.
53. APTN also committed to broadcast a minimum of two hours per broadcast week of original priority programs between 7:00 p.m. and 11:00 p.m. in the first and second years of the new licence term. This amount would increase to a minimum of three hours per broadcast week of original priority programming in the third year and for the remainder of the licence term.
54. The Commission will require APTN to fulfill the above commitment to the broadcast of Canadian programs drawn from the priority program categories. A **condition of licence** to this effect is set out in Appendix B to this decision. The Commission also expects the licensee to fulfil its further commitment towards the broadcast of original priority programming.

Regional reflection

55. APTN made several commitments to help ensure that the programming it broadcasts reflects the needs and interests of Aboriginal peoples in all regions of the country, especially those living outside of Toronto, Vancouver and Montréal.
56. In addition to the establishment of its proposed Eastern and Western feeds, APTN has set aside specific funds to encourage regional production across Canada. As noted above, APTN has committed to add a minimum of \$400,000 per year to its programming budget for Aboriginal-language programming from the regions. APTN currently has seven news bureaus, one in each of Yellowknife, Halifax, Montréal, Ottawa, Toronto, Saskatoon and Vancouver, and operates a national news production center in Winnipeg. In the upcoming licence term, APTN intends to open three additional regional news bureaus, one in each of the Yukon, Nunavut and the Prairies, for the purpose of better reflecting the diversity of Aboriginals throughout the country. With the addition of these three news bureaus, APTN will be able to provide four additional news breaks each day, provide a daily newscast Monday to Friday throughout the year, and broadcast a minimum of 8 hours per year of news specials.
57. The Commission expects APTN to fulfil its commitments towards the provision of regional reflection and news programming.

Support for independent production

58. APTN's original commitment was to allocate a total of \$255,000 over the course of its first licence term to fund the development of programs in the underrepresented categories of drama, music/dance, and variety. In its renewal application, the licensee committed to expand considerably its expenditures on program development and to shift their focus. Specifically, APTN committed to spend \$500,000 per year to support the development of new Canadian Aboriginal independently produced programs in English, French, and Aboriginal languages. The Commission expects APTN to adhere to this commitment.
59. In its application, APTN also committed to ensure that a minimum of 80% of its programming other than news, current affairs and sports is produced by independent (non-related) production companies. The Commission is satisfied that this amount of independent production is both reasonable and attainable, and requires that this commitment be met as a **condition of licence**, as set out in Appendix B to this decision.

Service to persons who are blind or whose vision is impaired

60. Section 3(1)(p) of the Act states, as part of the broadcasting policy for Canada, that "programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose." Accordingly, the Commission expects all broadcasters to work toward improving the accessibility of their programming for persons who are blind or whose vision is impaired.

61. Greater programming accessibility can be achieved through the provision of audio description² and/or of video description.³ All broadcasters can, and should, provide audio description.
62. Currently, APTN does not have the capability to use the SAP channel to make described programming accessible to persons in its audience who are blind or whose vision is impaired. APTN stated that it endeavours to provide voice-overs of textual, graphic design and still image elements, such as phone numbers, stock information, or weather maps that are posted on the screen. The Commission expects the licensee, as part of the normal technical upgrades to APTN's service, to acquire the capability to provide its audience with video description, for example, by using the SAP channel, particularly for the above-noted dramatic programs.
63. APTN stated that it "will make every effort to provide audio description of its programming where appropriate to facilitate the provision of information to persons who are visually impaired." APTN also committed to describe one hour of new, first-run English-language drama in each broadcast week in the first and second broadcast years of its new licence term, and thereafter, to describe all of the new first-run English- and French-language drama that it broadcasts.
64. During the new licence term, the Commission expects the licensee to provide audio description, wherever appropriate; to acquire and broadcast the described versions of a program, wherever possible; and to take the necessary steps to ensure that its customer service responds to the needs of viewers who have visual impairments.
65. The Commission requires the licensee, consistent with its commitments, to describe one hour of new, first-run English-language drama in each broadcast week of the first and second years of its new licence term, and thereafter, to describe all of the new first-run English- and French-language drama that it broadcasts. A **condition of licence** to this effect is set out in Appendix B to this decision.

Service to persons who are deaf or whose hearing is impaired

66. The Commission is committed to improving service to viewers who are deaf or hard of hearing, and has consistently encouraged broadcasters to increase the amount of closed captioned programming they broadcast. The Commission generally requires all broadcasters to offer a minimum percentage of closed captioned programs consistent with the nature of their services.

² Audio description consists of basic voice-over recitations or descriptions of the text or graphic information that is displayed on the screen. Although a measure of sensitivity and creativity on the part of a broadcaster is necessary to ensure the quality and effectiveness of audio description, no special equipment is required.

³ Video description, or described video, takes the form of a narrative description of a program's key visual elements which permits the audience to create a mental image of what is on the screen. It is generally provided using the secondary audio program (SAP) channel.

67. Consistent with its policy on the provision of closed captioning, the Commission requires the licensee, by **condition of licence**, to provide closed captioning for all English-language news programming and not less than 90% of all English-language programming aired during the broadcast day.
68. Because most of the new French-language programming on APTN will be provided by independent Aboriginal producers who have few resources, it will not be closed captioned. The Commission notes further that APTN does not plan to provide regular news programs in the French language. Nevertheless, APTN has committed to provide 25% of its new, original French-language programming with closed captions, beginning in the third year of the new licence term. The Commission considers this commitment to be an important step by APTN toward achieving the same levels of closed captioning in its French-language programming as it achieves in its English-language programming. Accordingly, the Commission requires that this commitment be met as a **condition of licence**. Further, the Commission encourages the licensee to provide closed captioning of other French-language programming whenever possible during the new licence term.
69. The Commission advises APTN that, at the time of its next licence renewal, the Commission intends to require it to provide captioning for a minimum of 90% of all English- and French- language programming aired during the broadcast day.

Other uses of SAP technology

70. One of APTN's objectives is to preserve and promote the use of Aboriginal languages. For this reason, in addition to using SAP technology for described video, APTN plans to increase the quantity of Aboriginal-language programming that it makes available to viewers by using SAP technology to provide Aboriginal-language versioning for programming that was originally produced in a non-Aboriginal or a different Aboriginal language.
71. APTN will also undertake to make some of its Aboriginal-language programs more accessible to Southern non-Aboriginal speaking audiences by including an English- or French-language translation of the corresponding program. Ultimately, APTN intends to provide up to four versions for much of the programming in its schedule (including programming in English, French and Aboriginal languages).
72. Consistent with the licensee's commitment, the Commission expects the licensee, by 1 September 2008, to be making use of the SAP channel for the broadcast of an average of four hours per week of programming in a language that is different from that broadcast on the primary audio channel.

Cultural diversity

73. APTN's corporate cultural diversity mandate is to "reflect the diversity of Aboriginal Peoples in the country, to employ and train Aboriginal Peoples for the broadcast industry, and to operate an Aboriginal-controlled television network." The Canadian Association

of Broadcasters (CAB), in *Reflecting Canadians: Best Practices for Cultural Diversity in Private Television*, the report of the Task Force for Cultural Diversity on Television, 15 July 2004, strongly commended the licensee on its performance in fulfilling its mandate:

APTN makes a significant contribution to onscreen reflection of Aboriginal Peoples. When APTN was factored into the analysis of programming, Aboriginal reflection increased significantly in many categories of content.

74. The Commission expects all broadcasters to endeavour, through their programming and employment opportunities, to reflect Canada's ethno-cultural minorities and Aboriginal peoples as well as persons with disabilities. While recognizing that APTN's programming is targeted specifically to the Aboriginal communities in Canada, the Commission expects the licensee to ensure that the on-screen portrayal of all groups is accurate, fair and non-stereotypical.

Employment equity and on-air presence

75. In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.
76. With respect to on-air presence, the Commission expects the licensee to ensure that its programming is reflective of Canadian society and that members of the four designated groups (women, Aboriginal persons, persons with disabilities and members of visible minorities) are presented fairly and accurately.

Governance

77. The Commission notes that, while APTN has amended its governance by-laws, its Board of Directors (Board) will retain its regionally representative structure. Specifically, the Board will consist of 21 members, including ten members representing northern Canada, ten members representing southern Canada, and one member selected by the Aboriginal broadcasting societies that make up the Northern Native Broadcast Access Program (NNBAP).
78. Consistent with the licensee's commitment, a **condition of licence** requiring that this regional representation on APTN's Board be maintained is set out in Appendix B to this decision. Further, the Commission expects the licensee to advise it of the names of new Board members upon their appointment.

Conclusion

79. In its evaluation of APTN's renewal application, the Commission has taken into consideration the substantial support for the licensee and its service, as expressed in the numerous interventions submitted by Aboriginal and non-Aboriginal individuals and groups, artists, broadcasters and producers. The Commission has determined that continued national distribution of APTN is in the public interest, in light of the objectives set out in section 3(d)(iii) of the Act and of the benefits that the service provides to the Canadian public and to the Canadian broadcasting system as a whole.
80. The Commission accordingly **renews**, from 1 September 2005 to 31 August 2012, the broadcasting licence issued to Aboriginal Peoples Television Network Incorporated for its satellite-to-cable programming undertaking and for the undertaking's transmitters listed in Appendix A to this decision. The licence will be subject to the **conditions** specified therein and to the conditions set out in Appendix B to this decision.

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>

Appendix A to Broadcasting Decision CRTC 2005-445

Transmitters that broadcast the programming of Aboriginal Peoples Television Network Incorporated

CHTG-TV	Goose Bay, NL
CH4153	Hopedale, NL
CH4151	Makkovik, NL
CH4154	Nain, NL
CH4152	Postville, NL
CH4155	Rigolet, NL
CH4203	Aklavik, NT
CH4171	Qikiqtarjuaq, NU (previously Broughton Island, NT)
CH4172	Clyde River, NU (previously Clyde River, NT)
CH4209	Deline (Fort Franklin), NT
CH4200	Fort Good Hope, NT
CH4173	Fort Liard, NT
CH4205	Fort McPherson, NT
CH4159	Fort Providence, NT
CH4207	Fort Resolution, NT
CH4202	Fort Simpson, NT
CH4206	Fort Smith, NT
CH4160	Hay River, NT
CH2553	Holman Island, NT
CH4221	Inuvik, NT
CH4175	Jean Marie River, NT
CH4176	Kakisa, NT
CH4177	Wha Ti, NT (previously Lac La Martre, NT)
CH4198	Kimmirut, NU (previously Lake Harbour, NT)
CH4180	Lutselk'e (Snowdrift), NT
CH4212	Nahanni Butte, NT
CH4220	Norman Wells, NT
CH4211	Paulatuk, NT
CH4215	Rae Lakes, NT
CH4264	Rae-Edzo, NT
CH4216	Sachs Harbour, NT
CH4179	Wekweti, NT (previously Snare Lake, NT)
CH4218	Trout Lake, NT
CH4170	Tsiigehtchic (Arctic Red River), NT
CH4204	Tuktoyaktuk, NT
CH4174	Tulita, NT
CH4181	Wrigley, NT
CHTY-TV	Yellowknife, NT
CH4196	Arctic Bay, NU
CH4158	Arviat (Eskimo Point), NU

CH4156	Baker Lake, NU
CH2550	Cambridge Bay, NU
CH4157	Cape Dorset, NU
CH4213	Chesterfield Inlet, NU
CH4197	Coral Harbour, NU
CH2552	Gjoa Haven, NU
CH4210	Grise Fiord, NU
CH4214	Hall Beach, NU
CH4201	Igloolik, NU
CH4161	Iqaluit, NU
CH2551	Kugluktuk (Coppermine), NU
CH4178	Nanisivik, NU
CH4162	Pangnirtung, NU
CH2554	Kugaaruk, NU (previously Pelly Bay, NU)
CH4163	Pond Inlet, NU
CH4265	Rankin Inlet, NU
CH4199	Repulse Bay, NU
CH4208	Resolute Bay, NU
CH4217	Sanikiluaq, NU
CH2555	Taloyoak (Spence Bay), NU
CH4219	Whale Cove, NU
CH4189	Akulivik, QC
CH4182	Aupaluk, QC
CH4191	Inukjuak, QC
CH4190	Ivujivik, QC
CH4183	Kangiqsualujjuaq, QC
CH4185	Kangiqsujuaq, QC
CH4184	Kangirsuk, QC
CH4195	Kuujuuaq (Fort Chimo), QC
CH4194	Kuujuuarapik, QC
CH4192	Povungnituk, QC
CH4186	Quaqtaq, QC
CH4193	Salluit, QC
CH4187	Tasiujaq, QC
CH4188	Umiujaq, QC
CH4223	Beaver Creek, YT
CH4224	Burwash Landing, YT
CH4226	Carcross, YT
CH4225	Carmacks, YT
CH4261	Dawson City, YT
CH4227	Destruction Bay, YT
CH4228	Faro, YT
CH4235	Haines Junction, YT
CH4229	Keno Hill, YT
CH4234	Mayo, YT
H4230	Old Crow, YT

CH4231	Pelly Crossing, YT
CH4222	Pilot Mountain, YT
CH4232	Ross River, YT
CH4233	Stewart Crossing, YT
CH4166	Tagish, YT
CH4167	Teslin, YT
CH4168	Upper Liard, YT
CH4169	Watson Lake, YT
CHWT-TV	Whitehorse, YT

Appendix B to Broadcasting Decision CRTC 2005-445

Conditions of licence

The licence is subject to the following conditions of licence:

1. The licensee shall adhere to the *Television Broadcasting Regulations, 1987*, except as provided for by condition of licence no. 2.
2. The licensee shall devote not less than 75% of the broadcast year and not less than 75% of the evening broadcast period to the broadcasting of Canadian programs.
3. The licensee shall charge each exhibitor of the service a maximum wholesale rate of \$0.25 per subscriber per month, where the service is carried as part of the basic service. The rate increase shall be made effective no later than 90 days following this decision.
4. The licensee shall file annual reports with the Commission demonstrating how the incremental revenue associated with the approved rate increase of \$0.10 has been directed towards the initiatives proposed in its renewal application and accepted by the Commission. Such reports shall be filed no later than 30 November in each year. The licensee shall consult with Commission staff regarding the content and format of such reports.
5. The licensee shall broadcast a minimum of 30 hours of programming in Aboriginal languages in each broadcast week, increasing to a minimum of 35 hours of such programming by the end of the licence term.
6. The licensee shall broadcast a minimum of 18 hours of French-language programming in each broadcast week, increasing to a minimum of 20 hours of such programming by the end of the licence term.
7. In addition to the 12 minutes of advertising material permitted by subsection 11(1) of the *Television Broadcasting Regulations, 1987*, the licensee may broadcast infomercials. The definition of infomercials and the criteria for broadcasting them are set out, respectively, in *Amendment to the Television Broadcasting Regulations, 1987 to permit, by condition of licence, the airing of "infomercials" during the broadcast day*, Public Notice CRTC 1994-139, 7 November 1994 and *Clarification of Certain Matters Relating to the Airing of "Infomercials" During the Broadcast Day*, Public Notice CRTC 1995-93, 13 June 1995, as they may be amended from time to time.

The Commission reminds the licensee that, as set out 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, infomercials should be logged as non-Canadian. When infomercials are logged, the start and end times should be listed, the Class should be indicated as “PGI”, and the category as 140. No other information relating to infomercials need be included in the program log.

8. The licensee shall broadcast, at a minimum, an average of six hours of Canadian programs in the priority program categories between 7:00 p.m. and 11:00 p.m. in each broadcast week during the first year of the licence term, and a minimum of seven hours of such programming in each broadcast week during the second year. The licensee shall broadcast, at a minimum, an average of eight hours of Canadian programs in the priority program categories between 7:00 p.m. and 11:00 p.m. in each broadcast week during the third and each successive year of the licence term.

For the purpose of fulfilling the above-noted condition, the licensee may claim the dramatic programming credit announced 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, as may be amended from time to time.

For the purpose of this condition of licence, the priority program categories shall be as specified in that public notice, namely: Canadian drama programs; Canadian music and dance and variety programs; Canadian long-form documentaries; Canadian regionally-produced programs in all categories other than News and information and Sports; Canadian entertainment magazine programs.

9. A minimum of 80% of programming broadcast by the licensee, other than news, current affairs and sports, shall be produced by independent production companies not related to the licensee.
10. The licensee shall provide described video to accompany a minimum of one hour of new, first-run English-language drama in each broadcast week during the first and second broadcast years of the licence term. During the third year and for the remainder of the licence term, the licensee shall provide described video programming for all new, first-run English- and French-language drama.
11. The licensee shall provide closed captioning for all English-language news programming and not less than 90% of all English-language programming aired during the broadcast day.

12. The licensee shall provide closed captions for at least 25% of its new, original, French-language programming in each broadcast day, beginning in the third year of the licence term.
13. The licensee shall have 21 members on its Board of Directors, including ten members representing northern Canada, ten members representing southern Canada, and at least one member who is selected by the existing Aboriginal broadcasting societies that make up the Northern Native Broadcast Access Program (NNBAP).
14. The licensee shall adhere to the guidelines on gender portrayal set out in the Canadian Association of Broadcasters' (CAB's) *Sex-role portrayal code for television and radio programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the Canadian Broadcast Standards Council (CBSC).
15. The licensee shall adhere to the provisions of the CAB's *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.
16. The licensee shall adhere to the guidelines on the depiction of violence in television programming set out in the CAB's *Voluntary code regarding violence in television programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the CBSC.