



Broadcasting Decision CRTC 2006-10

Ottawa, 19 January 2006

Canal Évasion inc.
Across Canada

*Application 2005-0047-2
Public Hearing in the National Capital Region
24 October 2005*

Canal Évasion – Licence renewal

*In this decision, the Commission **renews** the broadcasting licence for the specialty programming undertaking known as Canal Évasion, from 1 March 2006 to 31 August 2012. The details regarding the licensee's specific proposals for the new licence term, and the conditions of licence and other obligations determined by the Commission are set out below.*

The application

1. The Commission received an application from Canal Évasion inc. to renew the broadcasting licence for the French-language specialty programming undertaking known as Canal Évasion, which expires 28 February 2006.
2. In its licence renewal application, Canal Évasion inc. proposed to operate this undertaking under the same terms, conditions and definitions as in the current licence with the exception of a proposal to amend the condition of licence relating to the nature of the service and a proposal to reduce Canadian programming expenditures. The licensee proposed to add program category 7(f) Programs of comedy sketches, improvisation, unscripted works and stand-up comedy. The licensee submitted that the addition of this program category would enable it to expand its programming sources and satisfy viewer demand. The licensee also proposed to reduce Canal Évasion's Canadian programming expenditures from 46% to 44% of the previous year's gross revenues for the 2006 broadcast year, and to 42% for the 2007 to 2012 broadcast years.
3. Canal Évasion inc. also asked the Commission to permit it to classify the Tour de France as category 11 General entertainment and human interest. Failing such approval, Canal Évasion inc. requested that the Commission allow it to broadcast programming from category 6(a) Professional sports, in order that it might continue to broadcast this series of programs.

4. On the basis of its review of this licence renewal application and having considered the interveners' comments, the Commission **renews** the broadcasting licence for Canal Évasion, from 1 March 2006 to 31 August 2012. The licence will be subject to the **conditions** specified therein and to the **conditions** set out in the appendix to this decision.

Interventions

5. The Commission received interventions supporting the renewal of Canal Évasion's licence, as well as comments by the Association des producteurs de films et de télévision du Québec (APFTQ), CTV Inc. (CTV) and Mr. Luc Forest. Mr. Forest and APFTQ opposed the licence amendment requested by Canal Évasion inc. under which category 7(f) Programs of comedy sketches, improvisation, unscripted works and stand-up comedy would be added to the list of program categories that the service may broadcast. APFTQ also opposed the addition of category 6(a) Professional sports, and the reduction in Canadian programming expenditures. According to APFTQ, Canal Évasion inc. should not be allowed to amend, once more, Canal Évasion's nature of service.
6. In general, APFTQ was concerned that the Commission's repeated amendments to specialty services would move them away from their original mandate and ultimately result in a gradual dissolution of the personality, characteristics and image of each French-language specialty service.
7. APFTQ was also of the view that Canadian programming expenditures should be held at 46%, given that the service [TRANSLATION] "has become profitable." According to APFTQ, the licensee should stop requesting additional relief through amendments to its conditions of licence and start delivering on its commitments. APFTQ noted that, in the competitive process involving Canal Évasion inc., Radiomutuel inc., Astral Broadcasting Group Inc., and 3116883 Canada Inc., on behalf of a corporation to be incorporated, the Commission decided to award a broadcasting licence to Canal Évasion inc. because it concluded that Canal Évasion inc.'s overall proposal offered more benefits than that of its competitors in terms of complementarity to existing services, Canadian content, percentage of Canadian programming expenditures and other factors. Consequently, APFTQ submitted that it would be inappropriate to reduce Canadian programming expenditures to 42% for the 2007 to 2012 broadcast years.
8. CTV supported Canal Évasion inc.'s proposal to reduce its Canadian programming expenditures, but was concerned with the licensee's request to draw programming from category 6(a) Professional sports without setting a maximum percentage limit on programming from this category that could be broadcast by Canal Évasion.¹ CTV also pointed out that Canal Évasion inc.'s proposed amendment does not limit broadcasting of sporting events closely tied to the licensee's focus, i.e., tourism, adventure and travel.

¹ In response to an additional question from the Commission, the licensee indicated that it would accept a condition of licence limiting programming from category 6(a) to 15% per broadcast year, as was imposed on 1163031 Ontario Inc. in *Outdoor Life Network – Licence renewal*, Broadcasting Decision CRTC 2004-9, 21 January 2004.

9. CTV submitted that Canal Évasion inc.'s proposal to limit the broadcast of programming from category 6(a) Professional sports to 15% per year was inappropriate, given the significant differences between the comparable services i.e., Canal Évasion and Outdoor Life Network, a service devoted exclusively to programming related to outdoor recreation, conservation, wilderness and adventure. CTV also pointed out that Travel TV, the service that is the English-language equivalent of Canal Évasion, is not licensed to broadcast programming from category 6(a).
10. According to CTV, Canal Évasion should not be authorized to broadcast a level of more than 5% per year of programming from category 6 (a). CTV also proposed the addition of a condition of licence stipulating that sports programming broadcast by the applicant should be closely tied to Canal Évasion's nature of service i.e., tourism, adventure and travel. Finally, CTV suggested that the Commission impose a condition of licence on Canal Évasion inc. that is similar to that imposed on 1163031 Ontario Inc. in *Outdoor Life Network – Licence renewal*, Broadcasting Decision CRTC 2004-9, 21 January 2004, which defined the type of professional sports that it would not be authorized to broadcast, such as stick or ball sports, including hockey, baseball, football, basketball, golf, soccer and tennis.

Applicant's replies

11. Canal Évasion inc. noted that the addition of the proposed program categories would not change the service's original nature, i.e., a channel devoted to tourism, travel and adventure, but would rather allow the licensee to diversify the genre of programming while staying true to the focus of its nature of service.
12. Furthermore, Canal Évasion inc. disagreed with the arguments raised by APFTQ regarding the reduction in its Canadian programming expenditures. Canal Évasion inc. noted that the corporate plan that it filed with its licence application was based on distribution under the negative option. It submitted that the move to distribution based on the positive option caused losses of approximately \$9 million, and that reductions to its conditions of licence related to Canadian programming expenditures approved by the Commission to date have permitted it to avoid bankruptcy.

Commission's analysis and determinations

Addition of program categories 7(f) Programs of comedy sketches, improvisation, unscripted works and stand-up comedy and 6(a) Professional sports

13. The Commission notes the interventions by APFTQ and Mr. Forest concerning the addition of program category 7(f) Programs of comedy sketches, improvisation, unscripted works and stand-up comedy. However, the Commission considers that the addition of this program category does not raise any concerns regarding the integrity of Canal Évasion's nature of service, particularly given that the licensee will be required to air programs devoted exclusively to tourism, adventure and travel at all times. This flexibility will allow it to diversify its programming in response to the demands of

Canal Évasion's viewers. The Commission notes that no broadcaster opposed the addition of this program category. Accordingly, the Commission **approves** the licensee's request to add program category 7(f) to the list of categories from which Canal Évasion may draw programming. This **condition of licence** is set out in the appendix to this decision.

14. The Commission notes Canal Évasion inc.'s intent to air the Tour de France by transforming and adapting the content of this program to comply with its nature of service. Nevertheless, given that the majority of the content of the Tour de France is predominantly sports-related, the Commission finds that this program should be included in category 6(a) Professional sports rather than category 11 General entertainment and human interest.
15. Canal Évasion inc. requested that, in the event the Tour de France could not be included in category 11, the Commission allow it to broadcast programs from category 6(a) Professional sports so that it could continue to broadcast the Tour de France. The Commission is of the view that the addition of professional sports programs adapted to Canal Évasion's nature of service is an original way of diversifying the content of its programming schedule so that it attracts as many viewers as possible. However, the Commission notes that the annual limit of 15% proposed by Canal Évasion inc. could result in the broadcast of an excessive number of sports-related programs. The Commission finds that a limit of 10% would be appropriate because it would allow the licensee, among other things, to continue airing the Tour de France. The Commission notes, however, that the type of professional sports Canal Évasion may broadcast should be defined, and has therefore decided that the service will not be authorized to broadcast stick or ball sports, including hockey, baseball, football, basketball, golf, soccer and tennis. Accordingly, the Commission **approves in part** the licensee's request to add program category 6(a) Professional sports to the list of program categories from which Canal Évasion may draw programming, to an annual limit of 10%, rather than the 15% annual limit proposed by the licensee. The **condition of licence** relating to the nature of service is set out in the appendix to this decision, and includes restrictions on the use of programs from category 6(a).
16. The Commission reminds the licensee that all programs aired must be consistent with Canal Évasion's nature of service, and that these programs must be devoted entirely to tourism, adventure and travel.

Canadian programming expenditures

17. In its application, Canal Évasion inc. proposed to lower its Canadian programming expenditures from 46% to 44% of the previous year's gross revenues for the 2006 broadcast year, and to 42% for the 2007 to 2012 broadcast years. Canal Évasion inc. put forward three reasons for requesting a reduction in its Canadian programming expenditures to 42%. First, the percentage of Canadian programming expenditures set for Canal Évasion is higher than the average set for all other French-language specialty services. Second, this percentage is identical to the proposal in a competing application for a service called Canal télé-passeport in 1998 at the public hearing that led to the

approval of Canal Évasion. Finally, this percentage would allow the licensee to reach an appropriate level of profitability. Canal Évasion inc. submitted that that this level of profitability would partly offset its accumulated deficit of approximately \$9 million, as of 31 August 2003, and provide funds for promotional activities.

18. Since receiving its licence, Canal Évasion inc. has benefited from flexibility related to its conditions of licence because of the difficult circumstances at the time of its original launch and distribution, and the impact on the travel industry of terrorist attacks around the world since 2001. This flexible treatment related to the percentage of Canadian programming expenditures and its annual budget for acquiring the rights to original Canadian programming produced by companies that are shareholders or affiliated companies.
19. In *Licence amendment for Canal Évasion concerning its Canadian programming expenditures*, Broadcasting Decision CRTC 2002-10, 24 January 2002, the Commission authorized the licensee to spread a shortfall in Canadian programming expenditures over the next three years. Furthermore, in *Licence amendments for Canal Évasion*, Broadcasting Decision CRTC 2003-338, 30 July 2003, among other steps, the Commission permitted the licensee to increase the amount of its annual budget for acquiring the rights to original Canadian programming that can be spent on programs produced by companies that are shareholders or affiliated companies to Canal Évasion inc. from 25% to 45%, and also approved a gradual reduction in the percentage of gross revenues devoted to investment in Canadian programming from 50% to 48% for the 2004 broadcast year, and from 48% to 46% for the 2005 broadcast year. The Commission stated its intent to reassess the overall situation with the licensee at the time of Canal Évasion's next licence renewal.
20. The Canadian programming requirements imposed on specialty services at the time of licensing or at licence renewal are determined by the Commission on a case-by-case basis. The Commission's requirements are based on such considerations as the genre of the service proposed by the applicant, the availability of Canadian programming falling within that genre, and the applicant's other plans and commitments. The Commission also takes into account the applicant's proposed wholesale fee and the type of carriage on broadcasting distribution undertakings that the service would receive.
21. Traditionally, the Commission has considered it appropriate that a broadcaster's profitability be taken into account when assessing the contribution it should be called upon to make to the Canadian broadcasting system. At the same time, the Commission considers that it would be unfair and, over the long term, potentially counter-productive, for the Commission to increase the requirements imposed on profitable specialty licensees to a degree that would penalize their financial success and undercut their motivation to continue pursuing increased profit margins.

22. The Commission notes that the amendments approved to Canal Évasion inc.'s conditions of licence during its first licence term were intended to help the licensee address a precarious financial situation. The Commission notes that this relief appears to have been successful, given that Canal Évasion became profitable in 2004. The profit before interest and tax (PBIT) margin improved dramatically and, in 2004, the service's profit margin was almost the same as the average profit margin of the French-language analog television industry. Canal Évasion inc. also fulfilled its Canadian programming expenditure requirements throughout its first licence term. The Commission notes, however, that it took Canal Évasion inc. four years to make up this shortfall for 2001, rather than the three years required by the Commission.
23. In *Introduction to Broadcasting Decisions CRTC 2004-6 to 2004-27 renewing the licences of 22 specialty services*, Broadcasting Public Notice CRTC 2004-2, 21 January 2004 (Public Notice 2004-2), the Commission set out a graduated approach to Canadian programming expenditure requirements that the specialty services referred to in the appendix to that public notice would be required to meet during renewed licence terms. For services' first licence renewal, the approach was based upon the historical average PBIT margin for each service over the initial licence term, excluding the launch year, which was not considered to be representative. Those specialty services referred to in Public Notice 2004-2 that had recorded an average PBIT margin of under 20% during their first licence term would not be required to increase their spending on Canadian programming at licence renewal time. The Commission is satisfied that this approach is balanced and fair in that it takes into account a service's past financial performance and future projections, and relates its Canadian programming expenditure requirements directly to its profitability.
24. The Commission notes that Canal Évasion's average PBIT margin for its first licence term is below the 20% threshold. Under the circumstances, the Commission considers that an increase in Canadian programming expenditures is not appropriate at this time.
25. The Commission also considers that it is appropriate to hold the licensee's Canadian programming expenditures at the current level, i.e., 46% of gross revenues from the previous broadcast year, for each year of the new licence term. A **condition of licence** to that effect is set out in the appendix to this decision.
26. In view of the preceding, the Commission **denies** Canal Évasion inc.'s request to reduce Canadian programming expenditures from 46% to 44% of the previous broadcast year's gross revenues for the 2006 broadcast year, and to 42% for each of the 2007 to 2012 broadcast years.
27. The Commission recognizes the many problems that the licensee has faced since the service was launched. It notes all the effort to date that has gone into making the service profitable and encourages the licensee to continue its efforts in this regard.

Regional reflection and independent production

28. Section 3(1)(i)(v) of the *Broadcasting Act* (the Act) states that the programming provided by the Canadian broadcasting system should “include a significant contribution from the Canadian independent production sector.” The Commission’s concern is to ensure that independent production companies unaffiliated with the licensee have reasonable access to the licensee’s program schedule.
29. The Commission notes the numerous measures taken by Canal Évasion inc. aimed at reflecting the various regions of Quebec and Canada in its programming.
30. In accordance with its objective, the Commission expects the licensee to ensure that the programming aired by Canal Évasion reflects all of Canada’s regions. The Commission also expects the licensee to continue to provide opportunities for producers working outside the major production centres to supply programming for the service.
31. The Commission also notes Canal Évasion inc.’s commitment to invest approximately \$11 million in independent production, and expects the licensee to respect this commitment.

Cultural diversity

32. In its renewal application, the licensee stated that it was committed to ensuring representation of all ethnic and cultural groups, and to reflecting Canada’s cultural and ethnic diversity in the selection of programs. The licensee further added that the representation of Aboriginal persons is one of its concerns, and that they are represented in several programs.
33. As stated in Public Notice 2004-2, the Commission expects the licensee to endeavour, through its programming and employment opportunities, to reflect Canada’s ethno-cultural minorities and Aboriginal peoples. The Commission further expects the licensee to ensure that the on-screen portrayal of such groups is accurate, fair and non-stereotypical.
34. The Commission expects the licensee to file a corporate plan on cultural diversity within three months of the date of this decision. As outlined in Public Notice 2004-2, the corporate plan should include specific initiatives relating to corporate accountability, the reflection of diversity in programming and community involvement as well as how progress will be assessed with respect to each proposed initiative. The Commission expects the licensee to provide annual reports on its progress in achieving the plan’s objectives. Such reports should be filed no later than 31 January of each year of the new licence term.
35. As discussed in Public Notice 2004-2, the Commission also expects the licensee to continue to incorporate persons with disabilities into its cultural diversity corporate planning and to ensure that this is reflected in its annual reports on cultural diversity.

Services to persons who are deaf or hard of hearing

36. 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.
37. In the context of its licence renewal application, the licensee stated that it was prepared to make a commitment, by condition of licence, to gradually increase the percentage of all its programming that will be closed captioned, starting at 65% in the first year and achieving 75% in the last year of its new licence term.
38. The Commission generally requires English-language services to close caption a minimum of 90% of all their programming. In the past, French-language services were required to caption a lower percentage of their programming, in recognition of the greater challenges involved in captioning French-language programming. However, the Commission considers that it is now appropriate to require that French-language broadcasters close caption the same percentage of programming as their English-language counterparts.
39. The Commission notes that the licensee indicated that it was prepared to make a commitment, by condition of licence, to close caption 65% of all its programming, starting in the first year of the new licence term, and to gradually increase that percentage to 75% of all its programming starting in the last year of its new licence term. In view of the licensee's arguments and its very recent profitability, the Commission expects the licensee to respect its captioning commitments and is imposing a **condition of licence** requiring the licensee to close caption at least 70% of all programming aired during the broadcast day, beginning no later than 1 September 2011. This **condition of licence** is set out in the appendix to this decision. The Commission further advises the licensee that, at the time of its next licence renewal, the Commission intends to require this service to provide captioning for a minimum of 90% of all programming.
40. The Commission further expects that, during the new licence term, the licensee will focus on improving the quality, reliability and accuracy of its closed captioning, and work with representatives of the deaf and hard of hearing community to ensure that captioning continues to meet their needs.

Employment equity and on-air presence

41. Pursuant to section 5(4) of the Act, the Commission does not regulate or supervise matters concerning employment equity in relation to broadcasting undertakings with more than 100 employees, as they are subject to the *Employment Equity Act*. However, the Commission continues to regulate matters such as on-air presence.

42. The Commission expects the licensees of specialty services to ensure that the on-air presence of members of the four designated groups (women, Aboriginal persons, persons with disabilities and members of visible minorities) is reflective of Canadian society, and that members of these groups are presented fairly and accurately.
43. In this regard, the Commission expects Canal Évasion inc. to give high priority to representing members of the four designated groups in its original productions.

Service to persons who are blind or whose vision is impaired

44. Section 3(1)(p) of the Act states that, as part of the broadcasting policy for Canada, “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.
45. The Commission is committed to improving the accessibility of television programming for persons with visual impairments through the provision of audio description and video description (also known as described video).
46. In recent decisions renewing the licences of specialty services, the Commission expected licensees to provide audio description wherever appropriate, to undertake upgrades to permit the delivery of described video on a secondary audio program (SAP) channel, and to acquire and broadcast described video programming wherever possible. Where appropriate, the Commission also encouraged specialty service licensees to provide at least one hour per week of described video programming, increasing by an additional hour per week in each successive year of their licence terms.
47. Furthermore, as indicated in Public Notice 2004-2, the Commission has not imposed any specific requirements on services whose programming is music-based, or is oriented towards sports, or news and information. Rather, the Commission’s focus has been on services featuring those types of programming, such as drama, documentary and children’s programs, that best lend themselves to described video.
48. The Commission notes the steps the licensee has taken during the current licence term to provide improved access to viewers who have visual impairments. The licensee intends to make the independent producers, which provide programs for Canal Évasion, more aware of the benefits for people who are visually impaired of having the program host provide, wherever possible and appropriate, audio description of certain information elements that appear on screen in textual or graphic form. The licensee also indicated that it is closely following technical developments that will improve access to Canadian programming services for people who have visual impairments, and that it intends to participate in the industry forums where these issues will be examined.
49. The Commission further expects that, during the new licence term, the licensee will take the necessary steps to ensure that its customer service responds to the needs of viewers who have visual impairments.

Programming delivered across time zones

50. In *Policy on violence in television programming*, Public Notice CRTC 1996-36, 14 March 1996, the Commission noted concerns expressed by parties that programs originating in certain time zones were being delivered by satellite to viewers in other time zones at hours that would be considered as inappropriate for their broadcast, based on the programs' content. The Commission encourages licensees whose services are distributed over various time zones to consider viewers in all the time zones served and offer the requisite protection when certain programs are scheduled.
51. The Commission wishes to underscore the importance it places on each broadcaster according proper sensitivity to the concerns of its viewers with respect to the scheduling of programming intended for adult audiences, taking into account the time zone differences between where a program originates and where it is received. The Commission expects licensees to demonstrate responsibility, particularly in responding to any complaint.

Compliance with industry codes

52. In accordance with its usual practice for specialty television services, the Commission is imposing **conditions of licence** requiring the licensee to adhere to industry codes related to sex-role portrayal, advertising to children and the depiction of violence in television programming.

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 to Broadcasting Decision CRTC 2006-10

Conditions of licence

1. The licensee shall provide a national, French-language specialty television service that is dedicated exclusively to tourism, adventure and travel. The programming shall be drawn exclusively from the following categories, as set out in Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
 - 1 News
 - 2(a) Analysis and interpretation
 - 2(b) Long-form documentary
 - 5(b) Informal education/Recreation and leisure
 - 6(a) Professional sports
 - 7(c) Specials, mini-series, made-for-TV feature films
 - 7(d) Theatrical feature films aired on TV
 - 7(f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy
 - 8(a) Music and dance other than music video programs or clips
 - 8(b) Music video clips
 - 9 Variety
 - 10 Game shows
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
2. The licensee shall devote at least 50% of its programming to programming of an informative nature drawn from categories 1, 2(a), 2(b) and 5(b).
3. No more than 10% of all programming broadcast during each broadcast year shall be drawn from category 6(a). This programming excludes stick or ball sports, including hockey, baseball, football, basketball, golf, soccer and tennis.
4. No more than 5% of all programming broadcast during each broadcast week shall be drawn from each of categories 7(c), 7(d) and 8(b).
5. All theatrical feature films broadcast by Canal Évasion shall have themes related to travel, and shall be limited in number to one per week.
6. In each broadcast year, the licensee shall devote to the distribution of Canadian programs not less than 50% of the broadcast day and not less than 50% of the evening broadcast period.

7. In accordance with the Commission's position on Canadian programming expenditures as set out in *New Flexibility With Regard to Canadian Program Expenditures by Canadian Television Stations*, Public Notice CRTC 1992-28, 8 April 1992, in *The Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-93, 22 June 1993, and in *Additional Clarification Regarding the Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-74, 10 December 1993:
 - (a) In each broadcast year of the licence term, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 46% of the gross revenues derived from the operation of this service during the previous broadcast year;
 - (b) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programs that is up to five percent (5%) less than the minimum required expenditure for that year calculated in accordance with this condition; in such case, the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure;
 - (c) In each broadcast year of the licence term, where the licensee expends an amount on Canadian programs that is greater than the minimum required expenditure for that year calculated in accordance with this condition, the licensee may deduct:
 - (i) from the minimum required expenditure for the following year of the licence term, an amount not exceeding the amount of the previous year's over-expenditure; and
 - (ii) from the minimum required expenditure for any subsequent broadcast year of the licence term, an amount not exceeding the difference between the over-expenditure and any amount deducted under (i) above.
 - (d) Notwithstanding paragraphs (b) and (c) above, during the licence term, the licensee shall expend on Canadian programs, at a minimum, the total of the minimum required expenditures calculated in accordance with this condition of licence.
8. The licensee shall spend no more than 45% of its annual budget for acquiring the rights to original Canadian programming on programs produced by companies that are shareholders of the licensee or its affiliated companies.

9. (a) Subject to subsections (b), (d) and (e), the licensee shall not distribute more than twelve (12) minutes of advertising material during each clock hour.
 - (b) Where a program occupies time in two or more consecutive clock hours, the licensee may exceed the maximum number of minutes of advertising material allowed in those clock hours if the average number of minutes of advertising material in the clock hours occupied by the program does not exceed the maximum number of minutes that would otherwise be allowed per clock hour.
 - (c) The licensee shall not distribute any paid advertising material other than paid national advertising.
 - (d) In addition to the twelve (12) minutes of advertising material, the licensee may broadcast partisan political advertising during an election period.
 - (e) For the purpose of this condition, advertising material does not include a promotion for a Canadian program to be broadcast by the licensee notwithstanding that a sponsor is identified in the title of the program or is identified as a sponsor of that program, where the identification is limited to the name of the sponsor only and does not include a description or representation of the products or services or any attributes of the sponsor's products or services.
10. The licensee shall provide closed captioning for not less than 70% of all programs aired during the broadcast day, beginning no later than 1 September 2011.
11. The licensee shall adhere to the guidelines on gender portrayal set out in the Canadian Association of Broadcasters' (CAB) *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).
12. 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.
13. 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.

For the purposes of these conditions of licence, all time periods shall be calculated according to Eastern standard time; the terms “broadcast day,” “ broadcast year,” “evening broadcast period” and “clock hour” shall have the same meaning as those set out in the *Television Broadcasting Regulations, 1987*; “broadcast week” shall have the same meaning as that set out in the *Radio Regulations, 1986*; and “paid national advertising” shall mean advertising material as defined in the *Specialty Services Regulations, 1990* and that is purchased at a national rate and receives national distribution on the service.