



Broadcasting Decision CRTC 2006-40

Ottawa, 13 February 2006

TVA Group Inc.
Across Canada

Application 2005-0632-1
Broadcasting Public Notice CRTC 2005-80
8 August 2005

Le Canal Nouvelles – Licence amendment

*The Commission **approves** an application to amend the licence for the national French-language specialty television service known as Le Canal Nouvelles (LCN), in order to amend the conditions of licence that define its nature of service.*

The licensee will no longer be required to operate LCN in a headline-news format presented in a 15-minute wheel. The licensee may also draw a limited amount of programming from category 2(a) Analysis and interpretation.

The application

1. The Commission received an application by TVA Group Inc. (TVA) to amend the broadcasting licence for the national, French-language specialty programming undertaking known as Le Canal Nouvelles (LCN). LCN is currently licensed to broadcast news, reporting and actualities programming in a “headline news” format presented in a continuously updated 15-minute wheel. The licensee proposed to replace the following conditions of licence:
 - 1.(a) The licensee shall provide a national French-language specialty television service, with programming that must be drawn 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
 - 3 Reporting and actualities
 - 12 Interstitials
 - 13 Public service announcements
 - (b) Subject to 1.(d), the licensee shall maintain a “headline news” format presented in a continuously updated 15-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.

with the following conditions:

1.(a) The licensee shall provide a national French-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 Quebeckers and Canadians; and includes news from within Quebec and Canada as well as coverage of news and events from around the world from a Canadian and Quebec 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

(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.

2. In support of its application, TVA noted that LCN is the only French-language news service that offers a 15-minute headline news format, and claimed that this format makes LCN non-competitive. TVA pointed out that the occurrences referred to in its conditions of licence make its operations costly and time-consuming, and require LCN to focus on format over content. The licensee added that LCN would continue broadcasting continuous news 24 hours a day.
3. TVA maintained that LCN needs to be able to evolve to serve its viewers more effectively. The licensee noted that the size of LCN's average audience has remained static for the last three years. According to the licensee, LCN must be allowed to evolve if the service is to remain viable over the long term.
4. TVA claimed that the television market is much more competitive and will become even more so as foreign news services attract increasing numbers of viewers. TVA noted that several continuous-news channels have adjusted their format in recent years, including CTV Newsnet, CNN Headline News and CablePulse24.

Interventions

5. The Commission received several interventions in support of the application, as well as interventions opposing it by the Canadian Broadcasting Corporation (CBC) and TQS inc. (TQS).
6. According to the CBC and TQS, the proposed changes to LCN's nature of service would make it directly competitive with the CBC's specialty television service Le Réseau de l'information (RDI) and with conventional television services, and would be inconsistent with the Commission's policy on the diversity of programming genres and the complementarity of existing services. The CBC submitted that the new definition of headline news, as proposed by TVA, is vague and would allow LCN to broadcast headlines only when it wanted.
7. The CBC contended that the condition requiring that LCN operate in a 15-minute news wheel is key to ensuring that its news service remains distinct from RDI and to ensuring a minimum of diversity in the French-language market. The CBC claimed that TVA has not demonstrated that there is a new reality in the French-language market that would justify eliminating this condition of licence.
8. In the CBC's view, the addition of category 2(a) would allow LCN to broadcast programming similar to that offered by RDI, and would not be compatible with a headline news service. For its part, TQS noted that there is already an extensive offering of programming from this category, and that any additional offering could jeopardize TQS' market share and its financial viability. According to TQS, LCN has a significant advantage because of its complementarity with the TVA network, and because LCN and the TVA network could exchange category 2(a) programming.

9. The CBC and TQS maintained that Decision 2005-131¹ cannot be used as a precedent to approve LCN's application, particularly because the French-language market is different from the English-language market. According to both of these interveners, unlike the English-language headline news specialty service CTV Newsnet, LCN is not competing with American news services.
10. The CBC and TQS noted that LCN's financial picture is very different from that of CTV Newsnet, and that LCN is a very profitable undertaking. TQS submitted that LCN's market share and profitability have increased steadily over the years. CBC added that TVA did not provide any financial data to support its argument that its current conditions of licence make its operations too costly.

TVA's reply

11. TVA maintained that LCN would continue to be a news service using a continuous headline news format, and would complement existing services. The licensee is requesting some flexibility so that it can provide news services to viewers even more efficiently.
12. TVA argued that adding a limited quantity (12%) of category 2(a) programming would provide viewers with the background information that will help them better understand the development of the news that is making headlines. TVA maintained that the CTV Newsnet case set a major precedent for approving its application, and noted that, in Decision 2005-131, the Commission determined that the addition of category 2(a) programming would not alter the nature of CTV Newsnet's service and that a 12% limit was appropriate.
13. Contrary to the arguments made by TQS and the CBC, TVA claimed that Francophones are increasingly tuning to American services, particularly CNN, which are competing directly with French-language channels during major events.
14. According to TVA, the reports that the interveners attached to their interventions do not reflect LCN's true financial situation. The licensee stated that LCN's financial statements prior to 2004 did not include all operating costs. In 2004, TVA began charging LCN for a percentage of its costs for the use of TVA infrastructure, resources and news content in Montréal and the regions.

Commission's analysis and determination

15. In the present application, the licensee proposed amendments to LCN's conditions of licence that define its nature of service. Specifically, TVA requested that the Commission delete conditions of licence 1.(b), 1.(c), 1.(d) and 1.(e), which require LCN 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 LCN's nature of

¹ See *CTV Newsnet – Licence amendment*, Broadcasting Decision CRTC 2005-131, 7 April 2005

service, and to add category 2(a) Analysis and interpretation² to the list of program categories from which it may draw its programming. TVA further proposed that not more than 12% of all programming broadcast during the broadcast week be drawn from category 2(a), and that all such programs must be related to headline news.

16. 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.
17. In the present case, the Commission notes that LCN was originally licensed in 1996³ following a competitive process. LCN was licensed to provide a national headline news service that would be distinct from and complementary to the long-form news service provided by RDI. The 15-minute news wheel format formed part of LCN'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 LCN'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.⁴
18. 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 Canadians who are subscribers to broadcasting distribution undertakings, 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. In Decision 2005-131, the Commission approved an application requesting that CTV Newsnet no longer be required to operate in a 15-minute news wheel and be authorized to broadcast a limited amount of programming drawn from category 2(a). Further, virtually all news services now provide viewers with the latest headline news in an alphanumeric display at the bottom of the screen during other news programming.
19. The Commission considers that its policy, which in this case calls for LCN not to be directly competitive with other Canadian specialty news services, needs to be applied in the context of the current dynamic broadcasting environment, and particularly the evolution of news services. The Commission further considers that the definition of LCN's nature of service as proposed by TVA is sufficiently focused to ensure that LCN does not deviate from its headline news format. In the Commission's view, the proposed nature of service definition will ensure that LCN continues to offer a headline news service that is distinct from and complementary to the diverse news and information service offered by RDI.

² Category 2(a) is defined in Appendix I of *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.

³ See "Le Canal Nouvelles" - *Approved*, Decision CRTC 96-615, 4 September 1996

⁴ See *Amendment to the conditions of licence concerning the nature of the specialty services provided by Newsnet and Le Canal Nouvelles (LCN)*, Decision CRTC 2001-711, 23 November 2001

20. The Commission considers that, if LCN's 15-minute headline news wheel format were eliminated, LCN's ability to compete with RDI and TQS will still be limited by the fact that LCN's nature of service will not fundamentally change. LCN will continue to be a headline news service distinct from the news services provided by RDI and TQS. The Commission notes in this respect that LCN's share of the 2+ audience in Quebec was 0.8% in 2004, compared with 2.2% for RDI and 11.7% for TQS. Consequently, the Commission does not consider that the proposed change will result in an increase in LCN's audience to the point that it will cause an undue negative impact on RDI or TQS.
21. The Commission finds that the addition of a limited amount of programming drawn from category 2(a) will not significantly alter the essence of LCN'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 TVA's commitment to limit the amount of programming drawn from category 2(a) to 12% of the broadcast week is appropriate.
22. In light of the above, the Commission **approves** the application by TVA Group Inc. to amend the broadcasting licence for the national, French-language specialty programming undertaking known as Le Canal Nouvelles, and replaces the licensee's current conditions of licence 1.(a) to 1.(e) defining its nature of service with conditions of licence 1.(a), (b) and (c) as proposed by TVA and set out at the beginning of this decision. For the purpose of condition 1.(c), a "broadcast week" shall be defined as the period of seven consecutive broadcast days, beginning on Sunday.

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>