



Broadcasting Decision CRTC 2008-226

Ottawa, 27 August 2008

Country Music Television Ltd.

Across Canada

Application 2008-0035-1, received 11 January 2008

Broadcasting Public Notice CRTC 2008-25

26 March 2008

Country Music Television – Licence amendments

*The Commission **approves** the request by Country Music Television Ltd. (CMT Ltd.), licensee of Country Music Television (CMT), to amend the condition of licence relating to the program categories from which it may draw programming to broadcast on CMT.*

*The Commission **denies** the licensee's request that the Commission amend the definition of a Canadian music video clip, as it would apply to music videos aired by CMT, so as to use the Commission's MAPL system.*

*The Commission also **denies** the licensee's request to amend the condition of licence relating to spending requirements on Canadian programming.*

The application

1. The Commission received an application by Country Music Television Ltd. (CMT Ltd.) to amend the broadcasting licence for the national, English-language specialty television programming undertaking known as Country Music Television (CMT). Specifically, the licensee proposed to amend certain conditions of licence for CMT,¹ as set out below.

Condition of licence relating to program categories

2. CMT Ltd. proposed to amend the condition of licence relating to the program categories from which it may draw programming to broadcast on CMT.
3. Firstly, the licensee proposed to add the following program categories, set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, to the list of categories from which it may draw programming to broadcast on CMT:

7(e) Animated television programs and films²; and

¹ These conditions of licence are set out in Decision 2001-154.

² This category excludes computer graphic productions without story lines.

7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy.

In this regard, CMT noted that it has been involved in the development of an animated program (Category 7(e)) that would follow the life of a country music star.

4. Secondly, the licensee proposed to replace condition of licence 1.(c), which reads as follows:

1.(c) No more than 14 hours of the programming broadcast during any broadcast week shall be drawn from Category 7.³

with the following condition of licence:

1.(c) No more than 15% of the programming broadcast during the broadcast week shall be drawn from Category 7.

5. Finally, the licensee proposed to replace condition of licence 1.(d), which reads as follows:

1.(d) No more than four feature films (Category 7d) shall be broadcast per month. An individual feature film may be broadcast only once in the evening broadcast period. That film may be repeated up to three times, during the same broadcast week. No feature films shall be broadcast except those in which:

- (i) a country music artist is the key subject of the film, or
- (ii) a country music artist is cast in a key performing role.

with the following condition of licence:

1.(d) No feature films (Category 7d) may be broadcast except those in which:

- (i) a country music artist is the key subject of the film, or
- (ii) a country music artist is cast in a key performing role.

6. CMT Ltd. submitted that approval of the above-mentioned amendments would allow it to adapt to the changing environment and changing viewer demands.

Condition of licence relating to the broadcast of Canadian music videos

7. CMT Ltd. also proposed to amend condition of licence 2.(a) relating to the broadcast of Canadian music videos, which currently reads as follows:

³ Drama and comedy

2.(a) Not less than 40% of all music videos (Category 8b) broadcast by the licensee during the broadcast year shall be Canadian music videos, whether aired as part of videoflow or packages in other types of programming.

8. In its application, the licensee noted that, for the purposes of this condition of licence, the definition of a Canadian music video clip that currently applies to music videos aired by CMT is set out in Public Notice 2000-42. According to that definition, a music video clip must meet one of the following conditions in order to be considered as Canadian:

- a) the video director or producer is Canadian;
- b) the video production facilities are located in Canada; or
- c) the video has already been qualified as a Canadian selection under regulations previously in effect.

9. In addition, as set out in Public Notice 2000-42, to qualify as Canadian, the music video clip played in its entirety must meet one of the following four requirements:

Requirement 1. The music video clip meets at least two of the following audio conditions a) through e):

- a) the music is or lyrics are performed principally by a Canadian;
- b) the music is composed entirely by a Canadian;
- c) the lyrics are written entirely by a Canadian;
- d) [the music clip] consists of a live performance that is wholly recorded in Canada;
- e) the performance was recorded after 1 September 1991, and a Canadian who has collaborated with a non-Canadian receives at least 50% of the credit as composer and lyricist according to the records of a recognized performing rights society;

Requirement 2. The music video clip is an instrumental performance of a musical composition that meets the conditions set out in 1b) or c) above;

Requirement 3. The music video clip is a performance of a musical composition that a Canadian has composed for instruments only;

Requirement 4. The music video clip has already been qualified as a Canadian music video clip under the regulations previously in effect.

10. The licensee proposed instead that, for the definition of a Canadian music video clip as it would apply to music videos aired by CMT, the Commission use what is commonly referred to as the MAPL system, which is currently used for defining Canadian music content for radio. The details of this system are set out in Broadcasting Public Notice 2006-158. According to that system, to qualify as “Canadian content,” a musical selection must generally fulfil at least two of the following conditions:

M (music) – the music is composed entirely by a Canadian.

A (artist) – the music is, or the lyrics are, performed principally by a Canadian.

P (production) – the musical selection consists of a live performance that is recorded wholly in Canada, or performed wholly in Canada and broadcast live in Canada.

L (lyrics) – the lyrics are entirely written by a Canadian.

- The musical selection was performed live or recorded after 1 September 1991, and a Canadian who has collaborated with a non-Canadian receives at least half of the credit as composer and lyricist.

The Commission notes that this corresponds essentially to Requirement 1 noted above.

11. Accordingly, the licensee proposed that condition of licence 2.(a) read as follows:

2.(a) Not less than 40% of all music videos (Category 8b) broadcast by the licensee during the broadcast year shall be Canadian music videos, whether aired as part of videoflow or packaged in other types of programming. For the purposes of this condition of licence, Canadian music videos shall be defined using the Commission’s MAPL system.

12. In support of its request, CMT Ltd. stated that there are a number of country artist videos, such as those by Shania Twain and Terri Clark, that do not qualify as Canadian because their country music videos are not produced or directed by Canadians. The licensee also noted that it does not control the selection of video directors. Finally, CMT Ltd. argued that “redefining Canadian music videos in line with the MAPL system would create consistency between radio and television services respecting the treatment of Canadian music and would allow CMT to count as Canadian content music videos from great and popular Canadian artists.”

Condition of licence relating to spending requirements on Canadian talent

13. Finally, CMT Ltd. proposed to amend the condition of licence relating to spending requirements on Canadian talent. This condition of licence currently reads as follows:

3. The licensee shall, in each year of the licence term, allocate not less than 22% of the previous year's gross revenues for investment in Canadian video and program production, through CMT's Video Advantage Program (VAP), to be allocated as follows:

- a) A minimum of 11% of the previous year's gross revenues shall be allocated to develop and produce Canadian country music videos.
- b) Up to 11% of the previous year's gross revenues shall be allocated to develop and create program content featuring Canadian country music artists, to be acquired from Canadian independent producers.
- c) Together with its Annual Return, the licensee shall file a list of the contributions for each year, setting out how the contributions were directed.

14. The licensee proposed that this condition of licence read as follows:

3. The licensee shall, in each year of the licence term, allocate not less than 22% of the previous year's gross revenues for investment in Canadian video and program production, through CMT's Video Advantage Program (VAP), to be allocated as follows:

- a) A minimum of 8% of the previous year's gross revenues shall be allocated to develop and produce Canadian country music videos.
- b) Up to 14% of the previous year's gross revenues shall be allocated to develop and create program content featuring Canadian country music artists, to be acquired from Canadian independent producers.
- c) Together with its Annual Return, the licensee shall file a list of the contributions for each year, setting out how the contributions were directed.

15. CMT Ltd. argued that the proposed amendment to this condition of licence would allow for more artist-driven programs and would increase the profile of Canadian country artists. The licensee also stated that the proposed amendment would allow the service to respond to its audience's interest in more documentary and lifestyle programming featuring Canadian music artists, and would assist in the building of a Canadian country star system.

16. The Commission received interventions in support of this application, as well as interventions in opposition from the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) and from the Canadian Independent Record Production Association (CIRPA). The interventions and the applicant's replies to the interventions can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

17. After examining the application, the interventions and the licensee's replies to the interventions, the Commission considers that the issues to be determined relate to the following:
- the proposed changes to program categories;
 - the request to change the criteria used by the Commission to define a Canadian music video; and
 - the proposed changes to the licensee's spending requirements.

Proposed changes to program categories

18. In regard to the programming changes proposed by the licensee, the Commission notes that, although CMT would be permitted to schedule more movies following the removal of restrictions on the maximum amount of films it can broadcast as well as on how many times it can broadcast a unique film, the service would continue to be limited in the amount of category 7 programming it could broadcast. In this regard, the Commission does not consider that the increase from 14 hours (11%) to 15% (18.9 hours) in programming from this category per broadcast week to be a significant increase. Further, CMT would still be required to devote 50% of its programming schedule to music videos, and all of the programming broadcast would be required to fit within CMT's nature of service.
19. Moreover, the Commission did not receive any interventions opposing CMT Ltd.'s proposal to add the program categories 7(e) and 7(f) to the list of program categories from which it may draw programming. Similarly, none of the interventions received specifically addressed CMT Ltd.'s proposal for the removal of restrictions on the maximum amount of films CMT may broadcast as well as on how many times it may broadcast a unique film.
20. In light of the above, the Commission considers that it would be appropriate to approve the request by CMT Ltd. in regard to the proposed amendments to the condition of licence relating to the program categories from which it may draw programming to broadcast on CMT, as set out above. The Commission reminds CMT that all of its programming must be consistent with its nature of service definition, which requires that it "provide a service with programming focused on country and country-oriented music," as set out in Decision 2001-154.

Request to change the criteria used by the Commission to define a Canadian music video

21. Since 2001, CMT has reduced its commitment to the broadcast of music videos from 90% to 50%. In addition, CMT did not submit sufficient evidence that there was a lack of Canadian country music videos or country music artists to meet their conditions of licence. Furthermore, the licensee did not provide evidence demonstrating a financial need to change the definition of a Canadian music video.
22. The Commission notes that CMT Ltd., in its proposal to amend the manner in which Canadian music videos are defined by removing the video criteria and keeping only the music criteria, is effectively proposing that the Commission make an exception to the current policy and apply to the television service CMT the definition of “Canadian musical selection” as it applies to radio services. Such an exception could have a precedent-setting effect for other music video specialty services.
23. The Commission notes that the current definition of a Canadian music video is presently applied to 11 music video services (including ethnic services) as well as other services that broadcast music videos. The criteria were specifically developed to provide support for Canadian video producers and directors, as well as their infrastructure, and the Commission considers that exceptions to the policy would be to the detriment of the Canadian video production industry.
24. Accordingly, the Commission considers that it would not be appropriate to change the present criteria that are used by the Commission to define a Canadian music video, as set out above.

Proposed changes to the licensee’s spending requirements

25. As noted above, CMT is currently required to spend 22% of the previous year’s gross revenues on Canadian video and program production, through CMT’s Video Advantage Program (VAP). Half of this amount must be devoted to the development and production of Canadian country music videos, and the other half must be devoted to the development and creation of program content featuring Canadian country music artists, to be acquired from Canadian independent producers.
26. The Commission considers that, given CMT’s mandate, and given that CMT is an important source of funding for English-language country music videos, it is important that this service continue to make an important financial contribution to the production of music videos. Furthermore, in Broadcasting Decision 2006-52, in support of its application to reduce, from 70% to 50%, the minimum amount of programming that must be devoted to programming drawn from category 8(b) Music video clips, CMT Ltd. stated that it was not seeking a reduction in the amount it must spend on programming from this category.

27. Finally, the licensee did not provide concrete evidence of audience interest in the other types of independent productions. The Commission further notes that the subscription numbers and the profit before interest and taxes for CMT have consistently been rising over the last few years, which provides evidence that the proposed changes are not necessary on a financial basis.
28. Accordingly, the Commission does not consider that it would be appropriate to allow CMT Ltd. to reduce its spending on Canadian country music videos and to redirect spending to the development and creation of program content featuring Canadian country music artists, to be acquired from Canadian independent producers.

Conclusion

29. In light of the above, the Commission **approves** the request by Country Music Television Ltd. to add the program categories 7(e) and 7(f) to the list of categories from which it may draw programming.
30. In addition, the Commission **approves** the licensee's request to increase the amount of programming that may be drawn from category 7, from 14 hours to no more than 15% of the broadcast week.
31. The Commission also **approves** the licensee's proposal for the removal of restrictions stating that no more than four feature films (category 7(d)) shall be broadcast per month and that an individual feature film may be broadcast only once in the evening broadcast period.
32. The Commission **denies** the licensee's request that the Commission use the MAPL system in its definition of a Canadian music video clip as it would apply to music videos aired by CMT.
33. Finally, the Commission **denies** the licensee's request to reduce its spending on Canadian music videos such that 8%, instead of 11%, of the previous year's gross revenues would be allocated to the development and production of Canadian country music videos, and that 14%, instead of 11%, of the previous year's gross revenues would be allocated to the development and creation of program content featuring Canadian country music artists, to be acquired from Canadian independent producers.

Other matters

Intellectual property concerns (terms of trade agreements)

34. In its intervention, the CIRPA requested clarification on the part of CMT Ltd. as to who owns the intellectual property of productions funded by the VAP. No such clarification was provided to the Commission by the licensee.

35. The Commission notes that intellectual property rights are determined in terms of trade agreements between independent producers and broadcasters. Accordingly, the Commission encourages discussion between recipients of the VAP and CMT regarding terms of trade agreements and expects a progress report in this regard to be submitted along with the licensee's next licence renewal application.

Secretary General

Related documents

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Country Music Television – Licence amendment*, Broadcasting Decision CRTC 2006-52, 28 February 2006
- *Licence renewal for Country Music Television (CMT)*, Decision CRTC 2001-154, 28 February 2001
- *Certification for Canadian Programs – A revised approach*, Public Notice CRTC 2000-42, 17 March 2000

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>.