



Broadcasting Decision CRTC 2009-409

Route reference: 2009-113

Additional references: 2009-70, 2009-70-1, 2009-70-2, 2009-113-1, 2009-113-2, 2009-279

Ottawa, 6 July 2009

Canwest Television GP Inc. (the general partner) and Canwest Media Inc. (the limited partner), carrying on business as Canwest Television Limited Partnership

Various locations

The application numbers are set out in the appendix to this decision.

Public Hearing in the National Capital Region

27 April 2009

Licence renewals

*The Commission **renews** the broadcasting licences for the television programming undertakings listed in the appendix to this decision from 1 September 2009 to 31 August 2010. With the exception of the amendments to the broadcasting licences for CIII-TV Paris and CKMI-TV Québec discussed below and the new **conditions of licence** relating to the broadcast of local programming set out in this decision, all the licences will be subject to the terms and **conditions** in effect under the current licences.*

*The Commission **approves** the licensee's request to amend the broadcasting licences for its regional services CIII-TV Paris and CKMI-TV Québec in order to make stations based in Toronto and Montréal (CIII-TV-41 and CKMI-TV-1) the originating stations. Accordingly, these stations will be permitted to broadcast local advertising for those markets. Further, the Commission replaces the condition of licence requiring CIII-TV to broadcast 15.5 hours of regional news with the obligation relating to the broadcast of local programming established in Broadcasting Regulatory Policy 2009-406.*

*The Commission **denies** the licensee's request to amend the broadcasting licence for the ethnic television station CJNT-TV Montréal in order to eliminate certain requirements relating to ethnic and French-language non-ethnic programming and reduce the number of groups and languages targeted and the amount of local ethnic programming.*

*The Commission also **denies** the licensee's request to remove the commitment limiting to 10% the level of programming overlap between CHAN-TV and CHEK-TV Victoria and CIII-TV Paris and CHCH-TV Hamilton respectively.*

Introduction

1. In Broadcasting Notice of Consultation 2009-113, the Commission announced that it would hold a public hearing commencing 27 April 2009 to consider various licence renewal applications for private conventional television programming undertakings. In Broadcasting Notice of Consultation 2009-70, the Commission had indicated that it would be predisposed to issue short-term licences and would focus on certain key issues, including changes to local, priority and independent production commitments. The Commission notes that as set out in Broadcasting Regulatory Policy 2009-406, also issued today, it is maintaining the priority programming condition of licence and associated independent production expectation. The rationale for each is described in Broadcasting Regulatory Policy 2009-406.
2. The private conventional television broadcasters were directed to specify any proposed amendments to existing conditions of licence and the reasons for these amendments, as the Commission announced that it intended to retain all other conditions of licence as they currently apply.
3. In this context, the Commission received applications by Canwest Television GP Inc. (the general partner) and Canwest Media Inc. (the limited partner), carrying on business as Canwest Television Limited Partnership (Canwest), to renew the broadcasting licences for its conventional television programming undertakings serving various locations across Canada.
4. Canwest proposed to amend the broadcasting licences for the regional television programming undertakings CIII-TV Paris and CKMI-TV Québec and their transmitters in order to make CIII-TV-41 Toronto and CKMI-TV-1 Montréal the originating stations. As local stations, these stations would be permitted to access local advertising in these markets.
5. Canwest also proposed to amend the broadcasting licence for the ethnic television programming undertaking CJNT-TV Montréal in order to:
 - eliminate the requirement for 75% ethnic programming between 8 and 10 p.m.;
 - eliminate the requirement for French-language non-ethnic programming;
 - reduce the number of groups and languages targeted to 5 per week; and
 - reduce the amount of local ethnic programming from 13.5 to 5 hours.
6. Finally, Canwest requested the removal of a commitment that limits to 10% the level of programming overlap between CHAN-TV and CHEK-TV Victoria and CIII-TV Paris and CHCH-TV Hamilton respectively.
7. As part of this process, the Commission received and considered interventions with respect to each of the applications. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

8. After examining the applications in light of applicable regulations and policies, including the policy determinations announced in Broadcasting Regulatory Policy 2009-406, and taking into account the interventions received and the applicant's replies to the interventions, the Commission considers that the issues to be addressed in its determinations are the following:
- allegations of non-compliance with conditions of licence relating to local programming;
 - the renewal of the broadcasting licences for Canwest's television stations;
 - the proposed amendments to the licences for CIII-TV and CKMI-TV;
 - the proposed amendments to the licence for the ethnic station CJNT-TV;
 - the request to eliminate the 10% programming overlap limit with respect to CHAN-TV and CHEK-TV and CIII-TV and CHCH-TV; and
 - changes to local programming requirements.

Allegations of non-compliance with conditions of licence relating to local programming

9. The Communications, Energy and Paperworkers Union of Canada (CEP) questioned whether or not Canwest was in compliance with the conditions of its licences relating to local programming. In Broadcasting Decision 2009-115, the Commission addressed an earlier complaint by the CEP that the licensee's plan to shift elements of its local program production from its television stations to broadcast centres in Vancouver, Calgary, Edmonton and Toronto would contravene its obligations with respect to the broadcast of local programming and the Commission's local advertising policy. The Commission was unable to conclude at that time that the implementation of the broadcast centres would put Canwest in contravention of the terms and conditions of its licences, the Commission's regulations and/or the local advertising policy.
10. The Commission has examined the documentation that Canwest submitted as part of its renewal applications and the documentation that formed the public record of this hearing. It is the Commission's determination that there is insufficient evidence on the public record of this hearing to conclude that the licensee was operating in non-compliance with the terms and conditions of its licences during the last licence term. However, the Commission will continue to monitor the situation.

Renewal of the broadcasting licences for Canwest's television stations

11. In Broadcasting Decision 2009-279, the Commission announced that it would issue a one-year licence renewal (1 September 2009 to 31 August 2010) for the conventional television programming undertakings operated by Canwest in order to allow the Commission to consider these stations in the context of the group-based (conventional and discretionary) licence renewals. These applications will be heard at a public hearing scheduled for the spring of 2010. Accordingly, the Commission **renews** the broadcasting licences for the conventional television programming undertakings listed in the appendix to this decision from 1 September 2009 to 31 August 2010.

12. The licences for these undertakings will be subject to the terms and **conditions** set out in Decision 2001-458, which apply to all of Canwest's stations, to the **conditions** that are unique to each of Canwest's stations, which are set out in individual decisions accompanying Decision 2001-458, and to all subsequent modifications to these conditions of licence, including the amendments to the licences for CIII-TV and CKMI-TV set out below. The licences will also be subject to the **conditions of licence** relating to the broadcast of local programming requirements set out below.

Proposed amendments to the licences for CIII-TV and CKMI-TV

13. The Commission notes that the class of "local" conventional undertaking is more in line with existing Commission policies. The Commission further notes that it received an intervention by Sun TV Company supporting Canwest's request to amend the licence for CIII-TV to access Toronto or Hamilton local advertising revenues on condition that the licensee broadcast a sufficient amount of local programming for these markets. In light of the local programming obligations established in Broadcasting Regulatory Policy 2009-406 and as set out below, the licensee will be required to broadcast a minimum of 14 hours per week of local programming in Toronto. The Commission considers that this represents an adequate level of local programming. No interventions were received in opposition to the proposed amendment to the licence for CKMI-TV Québec.
14. In light of the above, the Commission **approves** Canwest's applications to amend the broadcasting licences for the regional television programming undertakings CIII-TV Paris and CKMI-TV Québec and their transmitters in order to make CIII-TV-41 Toronto and CKMI-TV-1 Montréal the originating stations. Accordingly, these stations will be permitted to broadcast local advertising for those markets.
15. Furthermore, the Commission notes that the condition of licence imposed in Decision 2001-458-3 requiring CIII-TV Paris to broadcast 15.5 hours of regional news was a result of a concern by the Commission during the April 2001 licence renewal hearing that Canwest had failed to fulfill a regional news commitment in the previous licence term. Given that Canwest has had no compliance issues in this regard during the current licence term and in light of the above-noted amendment to the licence for CIII-TV, the Commission deletes this condition of licence and replaces it with the obligation relating to the broadcast of local programming established in Broadcasting Regulatory Policy 2009-406.

Proposed amendments to the licence for the ethnic station CJNT-TV

16. Decision 2000-744 set out a number of conditions of licence for CJNT-TV related to the provision of ethnic and non-ethnic programming, including the following:
 1. CJNT-TV shall devote to the broadcasting of ethnic programs:
 - b) not less than 75% of the total number of hours broadcast annually between 8 p.m. and 10 p.m.

4. In periods where the licensee chooses to broadcast non-ethnic programming:
 - b) no less than 35% and no more than 60% of the total number of hours dedicated annually to non-ethnic programming shall be devoted to French-language non-ethnic programming.
 5. CJNT-TV shall broadcast ethnic programs directed toward not less than 18 distinct ethnic groups monthly and toward not less than 25 distinct ethnic groups annually.
 6. CJNT-TV shall broadcast ethnic programs in not less than 15 different languages monthly, and not less than 25 different languages annually.
17. In addition, Decision 2000-744 set out the licensee's commitment to broadcast 13 hours and 30 minutes of original local ethnic programming each week. In its renewal application, Canwest proposed to delete the above-noted conditions of licence and reduce the amount of local ethnic programming to 5 hours.
18. While the Commission notes that CJNT-TV is the only ethnic conventional television station with English- and French-language requirements, it is the Commission's determination that Canwest did not provide sufficient evidence to demonstrate how approving the proposed changes would provide any significant relief while providing an appropriate level of service to ethnic communities in Montréal. In addition, the Commission notes that it has granted a short-term licence renewal. Therefore, the licensee will have an opportunity to raise the issue, along with relevant supporting evidence, at the group-based licence renewal hearing scheduled for the spring of 2010.
19. Accordingly, the Commission **denies** the licensee's request to amend the conditions of licence and commitments associated with CJNT-TV Montréal. As such, the current licence requirements established in Decision 2000-744, including the current local ethnic programming commitment of 13 hours and 30 minutes, will continue to apply.

Request to eliminate the 10% programming overlap limit with respect to CHAN-TV and CHEK-TV and CIII-TV and CHCH-TV

20. The Commission notes that this commitment was introduced to ensure that the diversity of voices is maintained with regard to local and priority programming (see Decision 2000-221). In addition, the Commission notes that it has granted a short-term licence renewal. Therefore, the licensee will have an opportunity to raise the issue, along with relevant supporting evidence, at the group-based licence renewal hearing in 2010, during which the issue of programming overlap/synergies will be discussed in a broader context.
21. Accordingly, the Commission **denies** Canwest's request to eliminate the 10% programming overlap limit commitments.

Changes to local programming requirements

22. The Commission received several proposals relating to the appropriate level of local programming that should be broadcast by television stations operating in English non-metropolitan and metropolitan markets.¹
23. In Public Notice 1999-97, the Commission stated the following:

[...] in the new television environment, there are sufficient market incentives to ensure that audiences will continue to receive a variety of local news without regulatory requirements. News programming is a key element in establishing a station's identity and loyalty with viewers and is generally profitable.
24. However, since the issuance of that public notice, the industry has undergone significant consolidations, and large media companies – detached from the local communities they serve – now operate the majority of conventional television stations. Further, over the course of the current economic downturn, it has been observed that broadcasters are more likely to cut local programming, programming that can entail significant infrastructure costs, rather than make difficult decisions in terms of cutting popular programming. It is the Commission's view that diversity of voices and local reflection are equally as important as, if not more important than, other preoccupations of broadcasters and that such considerations and the public demand for local programming are currently not being appropriately recognized by many within the industry. These two elements are important objectives mandated by the *Broadcasting Act* and the Commission needs to ensure that they are supported by the broadcasting system.
25. The Commission has determined that a minimum of seven hours per week of local programming must be broadcast by television stations in English non-metropolitan markets. Accordingly, as a **condition of licence**, the Commission requires the following undertakings to broadcast no less than seven hours of local programming in each broadcast week:

CIHF-TV Halifax
CIHF-TV-2 Saint-John
CKND-TV Winnipeg
CFRE-TV Regina
CFSK-TV Saskatoon
CISA-TV Lethbridge
CITV-TV-1 Red Deer
CHCH-TV Hamilton
CHCH-DT Hamilton
CHCA-TV Red Deer
CHBC-TV Kelowna
CKEK-TV Victoria

¹ The definitions of metropolitan and non-metropolitan markets are the same as those set out in Broadcasting Public Notice 2008-100. Accordingly, English-language metropolitan television markets are those television markets in which the population with a knowledge of the English language, as defined by Statistics Canada, is one million or more, whereas English-language non-metropolitan television markets are those television markets in which the population with a knowledge of the English language is less than one million.

26. As set out in Broadcasting Regulatory Policy 2009-406, the above-noted television stations will not be eligible to receive funding from the Local Programming Improvement Fund if they are not in compliance with this condition of licence.
27. With respect to CKND-TV Winnipeg, the Commission notes that the licensee stated that it would broadcast 14 hours of local programming in each broadcast week, which exceeds the regulatory minimum set out above. The Commission welcomes any additional local programming that Canwest chooses to broadcast in the markets it serves.
28. In English metropolitan markets, the Commission has determined that a minimum level of 14 hours per week is appropriate. Accordingly, as a **condition of licence**, the Commission requires that the following undertakings broadcast no less than 14 hours of local programming in each broadcast week:

CKMI-TV-1 Montréal
CIII-TV-41 Toronto
CIII-DT-41 Toronto
CICT-TV Calgary
CITV-TV Edmonton
CHAN-TV Vancouver
CHAN-DT Vancouver
CHKM-TV Kamloops
CHKL-TV Kelowna
CIFG-TV Prince George

29. The Commission expects the licensee to maintain a local presence, as established in Broadcasting Regulatory Policy 2009-406. The Commission will be revisiting these local programming levels in the context of the aforementioned group-based licence renewals to determine whether or not they are still appropriate. The Commission reminds Canwest that the above levels are only minimums and welcomes any additional local programming that Canwest chooses to broadcast in the markets it serves.

Employment equity

30. Because Canwest is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *Policy determinations resulting from the 27 April 2009 Public Hearing, Broadcasting Regulatory Policy CRTC 2009-406, 6 July 2009*

- *Renewal of the broadcasting licences for private conventional television stations considered at the 27 April 2009 Gatineau public hearing – Initial decisions and scope of subsequent policy proceeding*, Broadcasting Decision CRTC 2009-279, 15 May 2009
- *Complaint by the Canadian Communications, Energy and Paperworkers Union of Canada against Canwest Media Inc.*, Broadcasting Decision CRTC 2009-115, 4 March 2009
- Broadcasting Notice of Consultation CRTC 2009-113, 3 March 2009
- *Scope of licence renewal hearings for private conventional television stations*, Broadcasting Notice of Consultation CRTC 2009-70, 13 February 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Licence renewal for CIII-TV*, Decision CRTC 2001-458-3, 2 August 2001
- *Licence renewal for Global's television service in Quebec*, Decision CRTC 2001-458-2, 2 August 2001
- *Licence renewals for the television stations controlled by Global*, Decision CRTC 2001-458, 2 August 2001
- *Acquisition of the assets of CJNT-TV*, Decision CRTC 2000-744, 29 November 2000
- *Acquisition by CanWest Global Communications Corp., through its wholly-owned subsidiary CW Shareholdings Inc., of the ownership interests held previously by WIC Western International Communications Ltd. in various conventional television stations and in certain other broadcasting undertakings*, Decision CRTC 2000-221, 6 July 2000
- *Building on success – A policy framework for Canadian television*, Public Notice CRTC 1999-97, 11 June 1999

This decision is to be appended to each 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 2009-409

Renewal of the broadcasting licences for Canwest's television stations from 1 September 2009 to 31 August 2010

Call sign	Location	Application
CFRE-TV and its transmitter CFRE-TV-2	Regina, SK Fort Qu'Appelle	2009-0052-3
CFSK-TV	Saskatoon, SK	2009-0060-7
CHAN-DT	Vancouver, BC	2009-0094-5
CHAN-TV and its transmitters CHAN-TV-1 CHAN-TV-2 CHAN-TV-3 CHAN-TV-4 CHAN-TV-5 CHAN-TV-6 CHAN-TV-7 CITM-TV CITM-TV-1 CITM-TV-2	Vancouver, BC Chilliwack Bowen Island Squamish Courtenay Brackendale Wilson Creek Whistler 100 Mile House Williams Lake Quesnel	2009-0063-0
CHBC-TV and its transmitters CHBC-TV-1 CHBC-TV-2 CHBC-TV-3 CHBC-TV-4 CHBC-TV-5 CHBC-TV-6 CHBC-TV-7 CHBC-TV-8 CHBC-TV-9 CHRP-TV-2	Kelowna, BC Penticton Vernon Oliver Salmon Arm Enderby Celista Skaha Lake Canoe Apex Mountain Revelstoke	2009-0064-8
CHCA-TV and its transmitters CHCA-TV-1 CHCA-TV-2	Red Deer, AB Calgary Edmonton	2009-0068-0
CHCH-DT	Hamilton, ON	2009-0096-1
CHCH-TV and its transmitters CHCH-TV-1 CHCH-TV-2 CHCH-TV-3 CHCH-TV-4	Hamilton, ON Ottawa London Muskoka Sudbury	2009-0069-8

CHCH-TV-5 CHCH-TV-6 CHCH-TV-7	Sault Ste-Marie North Bay Timmins	
CHEK-TV and its transmitters CHEK-TV-1 CHEK-TV-2 CHEK-TV-3 CHEK-TV-5	Victoria, BC Sooke River Jordan Port Alberni Campbell River	2009-0072-1
CHKL-TV and its transmitters CHKL-TV-1 CHKL-TV-2 CHKL-TV-3 CKKM-TV CISR-TV CISR-TV-1 CKTN-TV CKTN-TV-1 CKTN-TV-2 CKTN-TV-3 CKTN-TV-4	Kelowna, BC Penticton Vernon Revelstoke Oliver/Osoyoos Santa Rosa Grand Forks Trail Castlegar Taghum Nelson Creston	2009-0177-9
CHKM-TV and its transmitter CHKM-TV-1	Kamloops, BC Pritchard	2009-0172-9
CICT-TV and its transmitters CICT-TV-1 CICT-TV-2	Calgary, AB Drumheller Banff	2009-0075-5
CIFG-TV	Prince George, BC	2009-0178-7
CIHF-TV and its transmitters CIHF-TV-4 CIHF-TV-5 CIHF-TV-6 CIHF-TV-7 CIHF-TV-8 CIHF-TV-9 CIHF-TV-10 CIHF-TV-15 CIHF-TV-16	Halifax, NS Truro Wolfville Bridgewater Sydney New Glasgow Shelburne Yarmouth Antigonish Mulgrave	2009-0077-1
CIHF-TV-2 and its transmitters CIHF-TV-1 CIHF-TV-3 CIHF-TV-11 CIHF-TV-12 CIHF-TV-13 CIHF-TV-14	Saint-John, NB Fredericton Moncton Woodstock St. Stephen Miramichi Charlottetown, PEI	2009-0078-9

CIII-DT-41	Toronto, ON	2009-0092-9
CIII-TV-41 and its transmitters	Toronto, ON	2009-0080-5
CIII-TV	Paris	
CIII-TV-2	Bancroft	
CIII-TV-4	Owen Sound	
CIII-TV-6	Ottawa	
CIII-TV-7	Midland	
CIII-TV-12	Sault Ste-Marie	
CIII-TV-13	Timmins	
CIII-TV-22	Stevenson	
CIII-TV-27	Peterborough	
CIII-TV-29	Oil Springs	
CIII-TV-55	Fort Erie	
CFGC-TV	Sudbury	
CFGC-TV-2	North Bay	
CISA-TV and its transmitters	Lethbridge, AB	2009-0097-9
CISA-TV-1	Burmis	
CISA-TV-2	Brooks	
CISA-TV-3	Coleman	
CISA-TV-4	Waterton Park	
CISA-TV-5	Pincher Creek	
CITV-TV	Edmonton, AB	2009-0106-8
CITV-TV-1	Red Deer, AB	2009-0104-2
CJNT-TV	Montréal, QC	2009-0099-5
CKMI-TV-1 and its transmitters	Montréal, QC	2009-0100-3
CKMI-TV	Québec	
CKMI-TV-2	Sherbrooke	
CKND-TV and its transmitter	Winnipeg, MB	2009-0102-6
CKND-TV-2	Minnedosa	