



## Broadcasting Decision CRTC 2009-566

Route reference: 2009-272

Ottawa, 9 September 2009

**Life Network Inc.**  
Across Canada

*Application 2009-0453-3, received 5 March 2009*

### **Slice – Licence amendment**

*The Commission **denies** an application to amend the broadcasting licence for the national English-language specialty television service known as Slice in order to amend conditions of licence relating to levels of Canadian content and Canadian programming expenditures.*

### **Introduction**

1. The Commission received an application by Life Network Inc. (Life) to amend the broadcasting licence for the national English-language specialty television programming undertaking known as Slice in order to amend two conditions of licence relating to levels of Canadian content and to Canadian programming expenditures.
2. With respect to Canadian content, the applicant requested that the following condition of licence:
  3. The licensee shall devote not less than 82.5% of the broadcast year and not less than 82.5% of the evening broadcast period to the distribution of Canadian programs.be replaced with:
  3. The licensee shall devote not less than 60% of the broadcast year and not less than 60% of the evening broadcast period to the distribution of Canadian programs.
3. With respect to Canadian programming expenditures, the applicant requested that the following condition of licence:
  4. a) In each broadcast year, the licensee shall expend on Canadian programs not less than 71% of the previous broadcast year's gross revenues.

be replaced with:

4. a) In each broadcast year, the licensee shall expend on Canadian programs not less than 45% of the previous broadcast year's gross revenues.

4. The Commission received several interventions in opposition to this application, as well as three comments. The interventions and the applicant's reply to the interventions can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

### **Commission's analysis and determinations**

5. After examining the application in light of applicable regulations and policies and taking into account the interventions received and the applicant's reply to the interventions, the Commission considers that the issues to be addressed in its determinations are the following:

- Slice's financial situation; and
- the timing of the application.

### **Slice's financial situation**

6. Life stated that Slice's Canadian programming expenditures and Canadian content requirements are higher than other specialty services and that there is a correlation between these requirements and its financial performance. Life argued that Slice currently has the highest Canadian programming expenditures requirement of all specialty television stations, has the highest Canadian content requirement of all English-language, non-news specialty services and that Slice posted the second-highest operating income loss of all analog specialty services in 2007.
7. Life submitted data showing that Slice lost \$5.5 million in operating income from 2005 to 2007 and posted negative profit before interest and tax (PBIT) margins during that period. It also provided seven-year projections beginning in 2010, showing operating profits of between -8.3% and 2.2% without the proposed amendments and 19.4% to 25.5% with the proposed amendments.
8. In its intervention, the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) stated that there is not necessarily a correlation between Slice's high Canadian content requirements and its low profitability, because many other services with lower requirements lost money during the period cited by Life. It added that an alternative response to the imbalance between Slice's requirements and the national average could be to raise the requirements for other services at the group-based licence renewal hearing, particularly in light of the high PBIT margins (approaching 25%) enjoyed by many specialty services.

9. The Commission is of the view that the assumptions on which the projections are based appear reasonable, but notes that the current Canadian programming expenditures and Canadian content levels resulted from a competitive licensing process and commitments made during that process. Furthermore, Canwest Media Inc. (Canwest) acquired Slice in late 2007 with an awareness of these commitments and requirements.<sup>1</sup>
10. The Commission further notes that Slice posted a positive PBIT margin of 3% in 2008, its first full year under Canwest's ownership. The financial projections provided in the application also predict a positive operating profit in six of the seven years forecast. The Commission therefore considers that the financial situation of Slice does not warrant immediate review by the Commission.

### **Timing of the application**

11. Life stated in its application that it was applying for the requested amendments in advance of the upcoming group-based licence renewal hearing to ensure the requests would not get "lost in the shuffle" of this large public proceeding.
12. Numerous interveners, including ACTRA, the Canadian Film and Television Production Association, the Directors Guild of Canada and the Writers Guild of Canada (WGC), argued that, in their view, the application was premature and Slice's Canadian content and Canadian programming expenditures levels should be considered along with the other Canwest services at the group-based licence renewal hearing.
13. The WGC further argued that because numerous Canadian and non-Canadian programs are broadcast on more than one Canwest specialty service, which amortizes programming and acquisition costs across the ownership group, the current application cannot be properly assessed in isolation. It added that the onus should be on Canwest to ensure its concerns are properly represented at the group-based licence renewal hearing, not on the Commission to provide special consideration outside of the larger process.
14. In Broadcasting Public Notice 2008-100, the Commission stated that:

With respect to the programming obligations for pay and specialty services, the Commission considers it more appropriate to discuss these in detail at their licence renewals. This will give the licensees an opportunity to assess the impact of the new policies and regulations contained in this public notice and formulate their commitments accordingly.
15. Further, in Broadcasting Notice of Consultation 2009-279, the Commission announced that it will hold a policy proceeding in the fall of 2009. The scope of the proceeding will include establishing a framework for a group-based licence renewal process and "establishing the appropriate minimum levels of spending on Canadian programming by English-language television broadcasters and the regulatory mechanism to ensure these levels."

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<sup>1</sup> In Broadcasting Decision CRTC 2007-429, the Commission approved the transfer of effective control of Alliance Atlantis Broadcasting Inc.'s broadcasting companies to CanWest MediaWorks Inc. (now Canwest Media Inc.).

16. The Commission considers that the upcoming licence renewal process remains the most appropriate forum to address the issues raised in the present application. It finds no merit in Life's concern that Slice's programming obligations will be overlooked during the group-based licence renewal process. During that process, the Commission will examine Slice's conditions of licence in the context of the Canwest ownership group and other comparable specialty services, and more broadly address the question of appropriate Canadian content and Canadian programming expenditures requirements for specialty services.

## **Conclusion**

17. In light of the above, the Commission **denies** the application by Life Network Inc. to amend the broadcasting licence for the national English-language specialty television programming undertaking known as Slice in order to amend two conditions of licence relating to levels of Canadian content and to Canadian programming expenditures.

Secretary General

## **Related documents**

- *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
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Transfer of effective control of Alliance Atlantis Broadcasting Inc.'s broadcasting companies to CanWest MediaWorks Inc.*, Broadcasting Decision CRTC 2007-429, 20 December 2007

*This decision 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>.*