



Broadcasting Decision CRTC 2009-679

Route reference: 2009-378

Ottawa, 30 October 2009

TELUS Communications Inc., and 1219823 Alberta ULC in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as TELUS Communications Company

Kamloops, Kelowna, Nanaimo, Penticton, Prince George, Terrace, Vancouver
(including Lower Mainland, Fraser Valley and Whistler and surrounding areas),
Vernon and Victoria, British Columbia

Calgary, Edmonton (including St. Albert, Sherwood Park, Spruce Grove and
Stony Plain), Fort McMurray, Grande Prairie, Lethbridge, Medicine Hat and
Red Deer, Alberta

Applications 2008-1641-5 and 2008-1640-8, received 8 December 2008

Class 1 regional broadcasting licences for terrestrial broadcasting distribution undertakings serving communities in British Columbia and Alberta – Licence renewals and licence amendments

*The Commission **renews** the Class 1 regional broadcasting licences for the terrestrial
broadcasting distribution undertakings (BDUs) serving the above-noted communities in
British Columbia and Alberta, from 1 November 2009 to 31 August 2016.*

*The Commission **approves** various amendments to these broadcasting licences with some
changes to the requested authorization for the distribution of certain distant signals in
Kelowna and Vernon, British Columbia.*

*In accordance with its determinations on issues related to the accessibility of
telecommunications and broadcasting services to persons with disabilities as set out
Broadcasting and Telecom Regulatory Policy 2009-430, the Commission is imposing a
condition of licence applicable to each regional licence requiring the licensee to provide
one or more simple means of accessing described programming, whether in an open or
embedded format, that requires little or no visual acuity.*

Introduction

1. The Commission received applications by TELUS Communications Inc., and 1219823 Alberta ULC in partnership with TELUS Communications Inc. in TELE-MOBILE Company, partners in a general partnership carrying on business as

TELUS Communications Company (TELUS), to renew the Class 1 regional broadcasting licences for the terrestrial broadcasting distribution undertakings (BDUs) serving the above-noted communities in British Columbia and Alberta. The current licences expire 31 October 2009.¹

2. As part of its licence renewal applications, TELUS requested various licence amendments. Complete details regarding these licence amendments can be found in the licensee's applications and in Broadcasting Notice of Consultation 2009-378.
3. The Commission received one intervention opposing the application for systems serving communities in British Columbia as well as two interventions offering general comments on both applications. The interventions and the licensee's reply to the interventions can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

4. After examining the applications in light of applicable regulations and policies, and taking into account the interventions received and TELUS' reply to those interventions, the Commission considers that the issues to be determined relate to the following:
 - Requirement for an independent programming committee;
 - Authorization requested by TELUS related to the packaging of non-Canadian-originated services with Canadian pay and/or specialty services;
 - Authorization requested by TELUS for the distribution of certain distant Canadian signals in Kelowna and Vernon;
 - Amendment to the condition of licence authorizing TELUS to receive, directly through its own facilities, at its option, distant Canadian or U.S. signals;
 - Other licence amendments; and
 - Implementation of the Commission's determinations on issues related to the accessibility of telecommunications and broadcasting services to persons with disabilities as set out in Broadcasting and Telecom Regulatory Policy 2009-430.

Requirement for an independent programming committee

5. At the time of its original licensing application in 2003, TELUS Corporation had more than 20% non-Canadian ownership. To meet the definition of a qualified corporation as set out in the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998 (the Direction), TELUS

¹ Broadcasting Decision 2009-510 administratively renewed the licences, from 31 August 2009 to 31 October 2009.

accepted a condition of licence, as set out in Broadcasting Decision 2003-407, requiring the establishment of an independent programming committee (IPC). In 2005, the non-Canadian company Verizon divested its interests in TELUS, thereby bringing TELUS into full compliance with the Direction.

6. As part of these licence renewal applications, TELUS requested the suspension of the condition of licence, applicable to each regional licence, requiring the maintenance of an IPC as long as non-Canadian ownership of voting shares in TELUS exceeds the 20% threshold for more than three consecutive months. Instead, TELUS proposed that it be subject to the following condition for each regional licence:

At any given time that less than 80% of the voting shares and voting rights in TELUS Corporation are held by Canadians, the licensee shall establish an independent programming committee for a one-year period, to be implemented within 30 days of the date that the licensee becomes aware of the non-compliance situation. Furthermore, the licensee shall file within 30 days of the implementation of the said committee, and to the satisfaction of the Commission, the composition of the new independent programming committee and all the documents demonstrating its implementation.

7. The Commission notes that no interventions were received on this issue.
8. The Commission is satisfied that TELUS' current ownership is compliant with the Direction. The Commission considers that, in the event that non-Canadians were to own more than 20% of TELUS' voting rights or voting shares, a requirement for the establishment of an IPC would ensure that neither TELUS Corporation nor its Board of Directors could exercise control or influence over programming decisions. The Commission is satisfied that a condition of licence similar to the one proposed by TELUS will ensure that Canadians remain in control of programming as required by the Direction.
9. Accordingly, the Commission **approves** TELUS' request for the suspension of its current conditions of licence with respect to the establishment of an IPC. As set out in the appendices to this decision, the Commission is imposing a **condition of licence**, applicable to each regional licence, requiring the establishment of an IPC in the case that Canadians beneficially own and control, directly or indirectly, less than 80 per cent of all the issued and outstanding voting shares of TELUS Corporation and less than 80 per cent of the votes.

Authorization related to the packaging of non-Canadian-originated services with Canadian pay and/or specialty services

10. As part of both applications, TELUS requested the addition of a condition of licence related to the packaging of non-Canadian-originated services with Canadian pay and/or specialty services.

11. Among other things, the current distribution and linkage rules² for Class 1 BDUs specify that a Canadian pay television service may be linked in a given discretionary tier with no more than five channels containing any of the non-Canadian-originated services specified in either Section A or Section B of the *List of Part 2 eligible satellite services* (the Lists). This is commonly called the 1:5 rule. Further, each Canadian specialty service may be linked in a given discretionary tier with no more than one channel containing any of the non-Canadian-originated services specified in Section A of the Lists (the 1:1 rule).
12. In Broadcasting Public Notice 2008-100, the Commission determined that it will eliminate the 1:5 and 1:1 packaging rules as of 31 August 2011 at the same time that it enacts the amended *Broadcasting Distribution Regulations* (the Regulations) in order to implement the findings in that public notice. The Commission also stated that it would simplify and consolidate the lists of eligible satellite services to result in a single list for services authorized for either analog or digital distribution for all BDUs.
13. The Commission notes that no opposing interventions were received on this issue. Rather, in their respective interventions, Shaw Communications Inc. (Shaw) and Bell TV and Bell Aliant Regional Communications (Bell) supported TELUS' request and asked that, if approved, the Commission grant them the same authorization by way of a standard condition of licence.
14. The Commission considers that the flexibility requested by TELUS is consistent with the Commission's general approach to liberalizing packaging rules. The Commission therefore **approves** TELUS' request regarding the packaging of non-Canadian-originated services with Canadian pay and/or specialty services. A **condition of licence** applicable to each regional licence is set out in the relevant appendix to this decision.
15. As the requests by Shaw and Bell for a general authorization would extend the same flexibility to all BDUs, the Commission considers that, rather than proceeding by way of general authorization, it would be preferable to initiate a public process on a proposed amendment to the distribution and linkage rules themselves, which contain the packaging restrictions. Accordingly, the Commission will issue, shortly, a Broadcasting Notice of Consultation seeking comments on an amendment to Broadcasting Public Notice 2007-51, which sets out the *Distribution and linkage requirements for Class 1 and Class 2 licensees*, and to Broadcasting Public Notice 2007-52, which set out the *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*.

Authorization requested for the distribution of certain distant Canadian signals in Kelowna and Vernon

16. TELUS requested an authorization to distribute, at its option, and as part of the basic service in Kelowna and Vernon, the signals of CKVU-TV (CityTV) Vancouver, CIVI-TV (A-Channel) Victoria, CHNM-TV (Channel M) Vancouver and CHNU-TV (Omni 10) Fraser Valley.

² See Broadcasting Public Notice 2007-51.

17. Jim Pattison Broadcast Group Limited Partnership,³ on behalf of CFJC-TV Kamloops and CKPG-TV Prince George, and Astral Media Radio G.P.,⁴ on behalf of CFTK-TV Terrace and CJDC-TV Dawson Creek, (Pattison/Astral) filed a joint intervention in opposition to TELUS' request. While Pattison/Astral do not operate television stations in Kelowna or Vernon, these interveners expressed concern that the authorization, as requested, could adversely impact the local television stations they operate in other markets. Pattison/Astral therefore requested that the Commission impose "covering over" requirements similar to those imposed in Decision 2001-459. The term "covering over" refers to the insertion of commercials sold by local broadcasters over the out-of-market commercials aired on the distant signals and/or the replacement of designated commercials with other programming such as public service announcements or program promotions.
18. In response, TELUS indicated its willingness to accept the addition of a covering-over provision.
19. The Commission considers that authorizing the distribution of the signals requested by TELUS could serve to enhance the diversity of Canadian programming available in Kelowna and Vernon, especially given that there are no local stations in Vernon and currently only one local station in Kelowna, namely CHBC-TV, which is owned by Canwest Television Limited Partnership (Canwest).⁵ The Commission notes that Canwest did not intervene in this proceeding nor did the broadcasters whose signals would be extended out-of-market.
20. The Commission considers that it is appropriate to include a covering-over requirement similar to one of TELUS' existing condition of licence for Kamloops and Prince George, in order to protect the revenue base of any current or future local broadcasters in operation in these markets. However, the Commission notes that covering-over was not requested by a local broadcaster operating in either Vernon or Kelowna. Therefore, the Commission considers it appropriate to make the covering-over requirement subject to a local broadcaster's request and prior Commission confirmation.
21. In light of the above, the Commission **approves** the addition of the following **condition of licence**, as set out in Appendix 1 to this decision, for the systems serving communities in British Columbia:

a) Subject to paragraph b) below, the licensee is authorized to distribute, at its option, and as part of the basic service in Kelowna and Vernon, the signals of CKVU-TV (CityTV) Vancouver, CIVI-TV (A-Channel) Victoria, CHNM-TV (Channel M) Vancouver and CHNU-TV (Omni 10) Fraser Valley.

³ Jim Pattison Broadcast Group Ltd. (the general partner) and Jim Pattison Industries Ltd. (the limited partner), carrying on business as Jim Pattison Broadcast Group Limited Partnership

⁴ Astral Media Radio (Toronto) Inc. and 4382072 Canada Inc., partners in a general partnership carrying on business as Astral Media Radio G.P.

⁵ Canwest Television GP Inc. (the general partner) and Canwest Media Inc. (the limited partner), carrying on business as Canwest Television Limited Partnership

b) The licensee shall distribute only the covered-over signals of the stations listed in paragraph a) above, in the following circumstances:

- there is a local station that originates local content operating in the licensed area;
- that station identifies itself to the Commission, with a notification to TELUS, requesting permission to avail itself of the covering-over provision; and
- the Commission confirms in writing to TELUS and the local station that the local station is entitled to avail itself of the covering-over provision.

Amendment to the condition of licence authorizing TELUS to receive, directly through its own facilities, at its option, distant Canadian or U.S. signals

22. As part of each of these licence renewal applications, TELUS requested an amendment to its existing condition of licence authorizing it to receive, directly through its own facilities, at its option, any of the distant Canadian signals that are otherwise required to be received from a licensed satellite relay distribution undertaking (SRDU).
23. Shaw submitted comments on the proposed amendment. The Commission however considers that these comments pertain to the regulatory obligations applicable to SRDUs and terrestrial relay distribution network undertakings (TRDUs) and therefore are not relevant to the applications at hand. Rather, these comments were considered in the context of Broadcasting Notices of Consultation 2009-83 and 2009-84, which called for comments on proposed revisions to the *Exemption order respecting terrestrial relay distribution network undertakings* and on proposed revisions to the requirements set out in the *Lists of eligible satellite services*, respectively.
24. The Commission notes that a revised *Exemption order respecting terrestrial relay distribution network undertakings* and revised *Lists of eligible satellite services* were issued on 9 October 2009 in Broadcasting Order 2009-638 and Broadcasting Regulatory Policy 2009-639, respectively. Pursuant to these determinations, BDUs are no longer required to receive distant Canadian and U.S. signals from a licensed SRDU. Moreover, TRDUs operating under the *Exemption order respecting terrestrial relay distribution network undertakings* are no longer required to be affiliated (i.e. have an affiliation agreement) with the BDUs to which they transport programming services, or to operate only on a local or regional basis.
25. In light of the above, the Commission determines that the condition of licence authorizing TELUS to receive, directly through its own facilities, at its option, distant Canadian or U.S. signals is no longer required. Accordingly, the Commission **deletes** this condition of licence from both broadcasting licences that are the subject of this decision.

Other licence amendments

26. The Commission did not receive any interventions pertaining to the other licence amendments requested by TELUS. The Commission is satisfied that these requests do

not conflict with any of the CRTC's regulations and existing policy provisions. Accordingly, the Commission **approves** the other licence amendments requested by TELUS.

27. The Commission notes that TELUS' condition of licence authorizing it to distribute KSTW (IND) Tacoma/Seattle, Washington applicable to its systems serving communities in British Columbia, currently states that "the licensee is also authorized to receive KSTW (IND) from a Canadian source that is not a licensed Canadian satellite relay distribution undertaking". The Commission notes that, pursuant to the revised *Lists of eligible satellite services*, BDUs are no longer required to receive distant Canadian and U.S. signals from a licensed SRDU. Accordingly, the Commission **amends** this condition of licence in order to remove the latter portion of the condition of licence.
28. Furthermore, the Commission notes that TELUS currently has conditions of licence authorizing the use of local availabilities and the distribution of satellite subscription radio services. Since these authorizations are now included in the *General authorizations for broadcasting distribution undertakings* set out in Broadcasting Regulatory Policy 2009-546, and are applicable to all BDUs, these specific conditions of licence are no longer necessary. Accordingly, the Commission **deletes** these conditions from both licences that are the subject of this decision.

Implementation of the Commission's determinations regarding accessibility of services

29. In Broadcasting and Telecom Regulatory Policy 2009-430, issued 21 July 2009, the Commission set out its policy determinations regarding the accessibility of telecommunications and broadcasting services to persons with disabilities. Among other things, the Commission stated that it "intends to require BDUs, by condition of licence to be imposed at the time of licence renewal, to provide one or more simple means of accessing described programming, whether in an open or embedded format, that requires little or no visual acuity". Accordingly, pursuant to Broadcasting and Telecom Regulatory Policy 2009-430, the Commission is imposing a **condition of licence** to that effect, applicable to each regional licence, as set out in the relevant appendix to this decision.
30. Further, in accordance with Broadcasting and Telecom Regulatory Policy 2009-430, the Commission expects TELUS:
 - to ensure that subscribers are able to identify programming with described video in their electronic program guide;
 - to promote disability-specific products and services;
 - to make information available in alternative formats; and
 - to make its web site and call centre accessible.
31. The Commission also encourages TELUS to ensure that its set-top boxes are accessible to subscribers with vision and fine motor skill disabilities.

32. The Commission notes that it may impose further conditions of licence respecting accessibility matters five years into the licence term, if deemed appropriate.

Conclusion

33. The Commission **renews** the Class 1 regional broadcasting licences for the terrestrial BDUs serving the above-noted communities in British Columbia and Alberta, from 1 November 2009 to 31 August 2016.
34. The Commission **approves** various amendments to these broadcasting licences with some changes to the requested authorization for the distribution of certain distant signals in Kelowna and Vernon.
35. The licence will be subject to the **conditions** specified therein as well as to the terms and **conditions** set out in the appendices to this decision.

Employment equity

36. Because the licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the department of Human Resources and Social Development Canada, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *Amendments to the requirements set out in the lists of eligible satellite services*, Broadcasting Regulatory Policy CRTC 2009-639, 9 October 2009
- *Amendments to the Exemption order respecting terrestrial relay distribution network undertakings*, Broadcasting Order CRTC 2009-638, 9 October 2009
- *General Authorizations for Broadcasting Distribution Undertakings*, Broadcasting Regulatory Policy CRTC 2009-546, 31 August 2009
- *Administrative renewals*, Broadcasting Decision CRTC 2009-510, 20 August 2009
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- Broadcasting Notice of Consultation CRTC 2009-378, 23 June 2009

- *Call for comments on proposed revisions to the requirements set out in the lists of eligible satellite services*, Broadcasting Notice of Consultation CRTC 2009-84, 20 February 2009
- *Call for comments on proposed revisions to the Exemption order respecting terrestrial relay distribution network undertakings*, Broadcasting Notice of Consultation CRTC 2009-83, 20 February 2009.
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory Policy – Broadcasting Public Notice CRTC 2008-100*, 30 October 2008
- *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Public Notice CRTC 2007-52, 16 May 2007
- *Distribution and linkage requirements for Class 1 and Class 2 licensees*, Broadcasting Public Notice CRTC 2007-51, 16 May 2007
- *Regional broadcasting distribution undertakings in Alberta and British Columbia*, Broadcasting Decision CRTC 2003-407, 20 August 2003
- *Cable carriage of CIVT-TV Vancouver*, Decision CRTC 2001-459, 2 August 2001

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 1 to Broadcasting Decision CRTC 2009-679

Terms, conditions of licence, expectations and encouragement applicable to the Class 1 regional licence for the terrestrial broadcasting distribution undertakings serving Kamloops, Kelowna, Nanaimo, Penticton, Prince George, Terrace, Vancouver (including Lower Mainland, Fraser Valley and Whistler and surrounding areas), Vernon and Victoria, British Columbia

Terms

The operation of these terrestrial broadcasting distribution undertakings is regulated pursuant to the *Broadcasting Distribution Regulations* and all related policies.

The licence will expire 31 August 2016.

Conditions of licence

1. The licensee is authorized to distribute, at its option, CFTO-TV (CTV) and CIII-TV (Global) Toronto, and CKND-TV (Global) and CKY-TV (CTV) Winnipeg, as part of its discretionary service in Kamloops, Kelowna, Nanaimo, Penticton, Prince George, Terrace, Vancouver, Vernon and Victoria.
2. a) Subject to paragraph b) below, the licensee is authorized to distribute, at its option, and as part of the basic service in Kelowna and Vernon, the signals of CKVU-TV (CityTV) Vancouver, CIVI-TV (A-Channel) Victoria, CHNM-TV (Channel M) Vancouver and CHNU-TV (Omni 10) Fraser Valley.

b) The licensee shall distribute only the covered-over signals of the stations listed in paragraph a) above, in the following circumstances:
 - there is a local station that originates local content operating in the licensed area;
 - that station identifies itself to the Commission, with a notification to the licensee, requesting permission to avail itself of the covering-over provision; and
 - the Commission confirms in writing to the licensee and the local station that the local station is entitled to avail itself of the covering-over provision.
3. The licensee is authorized to distribute, at its option, CHEK-TV (Global) Victoria as part of its discretionary service in Vancouver, Prince George and Terrace.
4. The licensee is authorized to distribute, at its option, CHAN-TV (Global) Vancouver as part of its discretionary service in Kelowna, Kamloops, Penticton, Victoria, Nanaimo and Vernon.

5. The licensee is authorized to distribute, at its option, CIVI-TV (IND) Victoria as part of its discretionary service in Vancouver, Vernon, Prince George, Kelowna, Kamloops, Penticton and Terrace.
6. The licensee is authorized to distribute, at its option, CKVU-TV (IND) Vancouver as part of its discretionary service in Victoria, Nanaimo, Vernon, Prince George, Kelowna, Kamloops, Penticton and Terrace.
7. In Kamloops, the licensee shall distribute only one English-language CBC station, namely CFJC-TV Kamloops. The licensee shall also distribute CHBC-TV (Global) Kelowna in Kamloops.
8. In Kamloops and Prince George, the licensee shall distribute only covered-over signals of CHAN-TV (Global) Vancouver and CIVT-TV (CTV) Vancouver, and replace the covered commercial content with commercials sold by CFJC-TV Kamloops or CKPG-TV Prince George.
9. The licensee is authorized to distribute, at its option, CIVT-TV (CTV) Vancouver as part of its basic service in Kelowna.
10. The licensee is authorized to distribute, at its option, KVOS-TV (IND) Bellingham and KSTW (IND) Tacoma/Seattle, Washington, as part of its basic service in Vancouver, Victoria, Vernon and Kelowna.
11. The licensee is authorized to distribute, at its option, and as part of the basic service, the signals of KOMO-TV (ABC), KIRO-TV (CBS), KING-TV (NBC) Seattle, KCPQ (FOX) Tacoma and KCTS-TV (PBS) Seattle, or alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area and included in the *Lists of eligible satellite services*, as amended from time to time.
12. The licensee is relieved of the requirement under section 25(a) of the *Broadcasting Distribution Regulations* regarding the distribution of certain services on restricted channels. It may distribute a programming service referred to in section 18(5) or section 19(f) of the *Broadcasting Distribution Regulations* on a restricted channel only where the licensee has the prior written agreement of the programming service.
13. The licensee is authorized to distribute the following signals on a digital discretionary basis:
 - any of the distant Canadian television signals set out in the *List of Part 3 eligible satellite services*; and
 - a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network (hereafter referred to as the U.S. 4+1 signals).

The distribution on a discretionary basis on the licensee's digital service of a second set of U.S. 4+1 signals and distant Canadian signals is subject to the provision that, with respect to such signals, the licensee adhere to the requirements regarding non-simultaneous program deletion set out in section 43 of the *Broadcasting Distribution Regulations* (the Regulations). The Commission may suspend the application of this provision, with respect to the signals to be distributed, upon its approval of an executed agreement between the licensee and broadcasters. Such an agreement must deal with issues related to the protection of program rights arising in connection with the discretionary carriage of a second set of U.S. 4+1 signals and distant Canadian signals solely on the licensee's digital service.

The Commission reminds the licensee that the requirements set out in section 30 of the Regulations regarding simultaneous substitution apply also in the case of U.S. 4+1 and distant Canadian signals.

14. The licensee may distribute, at its option, and on a discretionary basis, any of the non-Canadian-originated services specified in Part 2, Section B of the *List of eligible satellite services* in a package with a Canadian pay and/or Canadian specialty service. The licensee may link up to five of these services to a Canadian pay television service or may link one of these services to a Canadian specialty service.
15. At any given time, in the case that Canadians beneficially own and control, directly or indirectly, less than 80 per cent of all the issued and outstanding voting shares of TELUS Corporation and less than 80 per cent of the votes, the licensee shall establish an independent programming committee for a one-year period, to be implemented within 30 days of the date that the licensee becomes aware of the non-compliance situation. Furthermore, the licensee shall file within 30 days of the implementation of the said committee, and to the satisfaction of the Commission, the composition of the new independent programming committee and all the documents demonstrating its implementation.
16. The licensee shall provide one or more simple means of accessing described programming, whether in an open or embedded format, that requires little or no visual acuity.
17. The licensee shall be subject to the following conditions of licence as an exception to the requirements set out in section 29 of the *Broadcasting Distribution Regulations* (the Regulations):
 - If the licensee has 20,000 or more subscribers in the licensed area of a broadcasting distribution undertaking (BDU) on August 31 of the previous broadcast year and distributes programming that qualifies as local expression on a video-on-demand or pay-per-view service, the licensee shall make, in each broadcast year, a contribution to Canadian programming of not less than the greater of

- a) 5% of its gross revenues derived from broadcasting activities in the licensed area in the year, less any contribution to local expression made by the licensee in the licensed area in that year, and
 - b) 3% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year.
- If the licensee has fewer than 20,000 subscribers in the licensed area of a BDU on August 31 of the previous broadcast year and distributes programming that qualifies as local expression on a video-on-demand or pay-per-view service, the licensee shall make, in each broadcast year, a contribution of not less than 5% of its gross revenues derived from broadcasting activities in the licensed area in the year to Canadian programming, less any contribution to local expression made by the licensee in the licensed area in that year.
- If the licensee has 20,000 or more subscribers in the licensed area of a BDU on August 31 of the previous broadcast year and does not distribute programming that qualifies as local expression on a video-on-demand or pay-per-view service, and if a community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of not less than:
 - a) 3% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year to Canadian programming, and
 - b) 2% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year to the community programming undertaking.
- If the licensee has fewer than 20,000 subscribers in the licensed area of a BDU on August 31 of the previous broadcast year and does not distribute programming that qualifies as local expression on a video-on-demand or pay-per-view service, and if a community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of 5% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year to the community programming undertaking.
- If the licensee does not distribute programming that qualifies as local expression on a video-on-demand or pay-per-view service, and if no community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of not less than 5% of its gross revenues derived from broadcasting activities in the licensed area in the year to Canadian programming.
- For the purpose of calculating the licensee's contribution to local expression for the Vancouver licensed areas, the licensee may include the contributions to local expression made for programming produced in other licensed areas within the

province of British Columbia, for programming produced outside the licensed areas within the province of British Columbia, or for programming covering provincial events within the province of British Columbia, up to a maximum of 20% of the total contribution to local expression applicable for the Vancouver licensed areas.

For the purposes of these conditions:

“video-on-demand service” means the video-on-demand programming undertaking authorized in *National video-on-demand service*, Broadcasting Decision CRTC 2003-453, 9 September 2003, as amended from time to time;

“pay-per-view service” means the pay-per-view programming undertaking authorized in *Pay-per-view service*, Broadcasting Decision CRTC 2006-491, 8 September 2006, as amended from time to time;

“contribution to local expression” means the eligible expenses for local expression made in accordance with *New Regulatory Framework for Broadcasting Distribution Undertakings*, Public Notice CRTC 1997-25, 11 March 1997, as amended from time to time;

“local expression” refers to programming that qualifies as local expression in accordance with the conditions of licence applicable to the programming service; and

“contribution to Canadian programming” shall have the meaning set out in section 29(1) of the *Broadcasting Distribution Regulations*.

Expectations

The Commission expects the licensee to ensure that subscribers are able to identify programming with described video in their electronic program guide.

The Commission expects the licensee to promote disability-specific products and services.

The Commission expects the licensee to make information available in alternative formats.

The Commission expects the licensee to make its web site and call centre accessible.

Encouragement

The Commission encourages the licensee to ensure that its set-top boxes are accessible to subscribers with vision and fine motor skill disabilities.

Appendix 2 to Broadcasting Decision CRTC 2009-679

Terms, conditions of licence, expectations and encouragement applicable to the Class 1 regional licence for the terrestrial broadcasting distribution undertakings serving Calgary, Edmonton (including St. Albert, Sherwood Park, Spruce Grove and Stony Plain), Fort McMurray, Grande Prairie, Lethbridge, Medicine Hat and Red Deer, Alberta

Terms

The operation of these terrestrial broadcasting distribution undertakings is regulated pursuant to the *Broadcasting Distribution Regulations* and all related policies.

The licence will expire 31 August 2016.

Conditions of licence

1. The licensee is authorized to distribute, at its option, CFTO-TV (CTV) and CIII-TV (Global) Toronto, and CKND-TV (Global) and CKY-TV (CTV) Winnipeg, as part of its discretionary service in Calgary, Edmonton, Fort McMurray, Grande Prairie, Lethbridge, Medicine Hat and Red Deer.
2. The licensee is authorized to distribute, at its option, CKRD-TV (CBC) Red Deer as part of its basic service in Edmonton and Calgary, and as part of its discretionary service in Grande Prairie, Lethbridge and Medicine Hat.
3. The licensee is authorized to distribute, at its option, CKEM-TV (IND) Edmonton and CICT-TV (Global) Calgary, as part of its discretionary service in Medicine Hat.
4. The licensee is relieved of the requirement under section 25(a) of the *Broadcasting Distribution Regulations* regarding the distribution of certain services on restricted channels. It may distribute a programming service referred to in section 18(5) or section 19(f) of the *Broadcasting Distribution Regulations* on a restricted channel only where the licensee has the prior written agreement of the programming service.
5. The licensee is authorized to distribute the following signals on a digital discretionary basis:
 - any of the distant Canadian television signals set out in the *List of Part 3 eligible satellite services*; and
 - a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network (hereafter referred to as the U.S. 4+1 signals).

The distribution on a discretionary basis on the licensee's digital service of a second set of U.S. 4+1 signals and distant Canadian signals is subject to the provision that, with respect to such signals, the licensee adhere to the requirements regarding non-simultaneous program deletion set out in section 43 of the *Broadcasting Distribution Regulations*. The Commission may suspend the application of this provision, with respect to the signals to be distributed, upon its approval of an executed agreement between the licensee and broadcasters. Such an agreement must deal with issues related to the protection of program rights arising in connection with the discretionary carriage of a second set of U.S. 4+1 signals and distant Canadian signals solely on the licensee's digital service.

The Commission reminds the licensee that the requirements set out in section 30 of the *Broadcasting Distribution Regulations* regarding simultaneous substitution apply also in the case of U.S. 4+1 and distant Canadian signals.

6. The licensee may distribute, at its option, and on a discretionary basis, any of the non-Canadian-originated services specified in Part 2, Section B of the *List of eligible satellite services* in a package with a Canadian pay and/or Canadian specialty service. The licensee may link up to five of these services to a Canadian pay television service or may link one of these services to a Canadian specialty service.
7. The licensee is authorized to distribute, at its option, and as part of the basic service, the signals of KOMO-TV (ABC), KIRO-TV (CBS), KING-TV (NBC) Seattle, KCPQ (FOX) Tacoma and KSPS-TV (PBS) Spokane, or alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area and included in the *Lists of eligible satellite services*, as amended from time to time.
8. At any given time, in the case that Canadians beneficially own and control, directly or indirectly, less than 80 per cent of all the issued and outstanding voting shares of TELUS Corporation and less than 80 per cent of the votes, the licensee shall establish an independent programming committee for a one-year period, to be implemented within 30 days of the date that the licensee becomes aware of the non-compliance situation. Furthermore, the licensee shall file within 30 days of the implementation of the said committee, and to the satisfaction of the Commission, the composition of the new independent programming committee and all the documents demonstrating its implementation.
9. The licensee shall provide one or more simple means of accessing described programming, whether in an open or embedded format, that requires little or no visual acuity.
10. The licensee shall be subject to the following conditions of licence as an exception to the requirements set out in section 29 of the *Broadcasting Distribution Regulations*:

- If the licensee has 20,000 or more subscribers in the licensed area of a broadcasting distribution undertaking (BDU) on August 31 of the previous broadcast year and distributes programming that qualifies as local expression on a video-on-demand or pay-per-view service, the licensee shall make, in each broadcast year, a contribution to Canadian programming of not less than the greater of
 - a) 5% of its gross revenues derived from broadcasting activities in the licensed area in the year, less any contribution to local expression made by the licensee in the licensed area in that year, and
 - b) 3% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year.
- If the licensee has fewer than 20,000 subscribers in the licensed area of a BDU on August 31 of the previous broadcast year and distributes programming that qualifies as local expression on a video-on-demand or pay-per-view service, the licensee shall make, in each broadcast year, a contribution of not less than 5% of its gross revenues derived from broadcasting activities in the licensed area in the year to Canadian programming, less any contribution to local expression made by the licensee in the licensed area in that year.
- If the licensee has 20,000 or more subscribers in the licensed area of a BDU on August 31 of the previous broadcast year and does not distribute programming that qualifies as local expression on a video-on-demand or pay-per-view service, and if a community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of not less than:
 - a) 3% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year to Canadian programming, and
 - b) 2% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year to the community programming undertaking.
- If the licensee has fewer than 20,000 subscribers in the licensed area of a BDU on August 31 of the previous broadcast year and does not distribute programming that qualifies as local expression on a video-on-demand or pay-per-view service, and if a community programming undertaking is licensed in the licensed area, the licensee shall make, in each broadcast year, a contribution of 5% of its gross revenues derived from broadcasting activities in the licensed area in the broadcast year to the community programming undertaking.
- If the licensee does not distribute programming that qualifies as local expression on a video-on-demand or pay-per-view service, and if no community programming undertaking is licensed in the licensed area, the licensee shall

make, in each broadcast year, a contribution of not less than 5% of its gross revenues derived from broadcasting activities in the licensed area in the year to Canadian programming.

- For the purpose of calculating the licensee’s contribution to local expression for each of the Calgary and Edmonton licensed areas, the licensee may include the contributions to local expression made for programming produced in other licensed areas within the province of Alberta, for programming produced outside the licensed areas within the province of Alberta, or for programming covering provincial events within the province of Alberta, up to a maximum of 20% of the total contribution to local expression applicable for each of the Calgary and Edmonton licensed areas.

For the purposes of these conditions:

“video-on-demand service” means the video-on-demand programming undertaking authorized in *National video-on-demand service*, Broadcasting Decision CRTC 2003-453, 9 September 2003, as amended from time to time;

“pay-per-view service” means the pay-per-view programming undertaking authorized in *Pay-per-view service*, Broadcasting Decision CRTC 2006-491, 8 September 2006, as amended from time to time;

“contribution to local expression” means the eligible expenses for local expression made in accordance with *New Regulatory Framework for Broadcasting Distribution Undertakings*, Public Notice CRTC 1997-25, 11 March 1997, as amended from time to time;

“local expression” refers to programming that qualifies as local expression in accordance with the conditions of licence applicable to the programming service; and

“contribution to Canadian programming” shall have the meaning set out in section 29(1) of the *Broadcasting Distribution Regulations*.

Expectations

The Commission expects the licensee to ensure that subscribers are able to identify programming with described video in their electronic program guide.

The Commission expects the licensee to promote disability-specific products and services.

The Commission expects the licensee to make information available in alternative formats.

The Commission expects the licensee to make its web site and call centre accessible.

Encouragement

The Commission encourages the licensee to ensure that its set-top boxes are accessible to subscribers with vision and fine motor skill disabilities.