



Broadcasting Notice of Consultation CRTC 2009-70

Ottawa, 13 February 2009

Scope of licence renewal hearings for private conventional television stations

Deadline for submission of information by licensees: 23 February 2009

Introduction

1. This notice of consultation is pursuant to the Commission's news release issued on 30 January in which it announced that it would review the scope of the licence renewal public hearings for private conventional television stations in order to determine how it can be significantly narrowed or reduced. In that news release, the Commission stated that this review would be conducted in light of concerns raised by conventional broadcasters relating to the challenges of the broadcasting environment and the current economic climate.
2. After examining the licence renewal applications submitted by the conventional television broadcasters, the Commission considers that it would be extremely difficult to determine appropriate regulatory obligations for a full seven-year licence term, for the following reasons:
 - the current economic uncertainty facing the broadcasting industry;
 - the need for completion of distant signal negotiations between conventional broadcasters and broadcasting distributors;
 - the need, prior to the consideration of full-term licences, to carry out stakeholder consultations and public hearings in order to set the terms for the administration of the Local Programming Improvement Fund (LPIF) for conventional broadcasters, including eligibility to access the fund and the method for calculating incremental spending on local programming; and
 - the need, prior to the consideration of full-term licences, to conduct stakeholder consultations and public hearings to consider the industry plans for the conversion of the conventional television sector to digital transmission.
3. Furthermore, the Commission is of the view that, given the increased consolidation of conventional and discretionary television holdings by the major broadcasters, assessing licence renewal applications by ownership group rather than on a sectoral basis would be more effective in furthering the objectives of the *Broadcasting Act*. Such group-based renewal applications will be heard at a public hearing to be scheduled for April 2010.

4. During the summer of 2009, the Commission intends to issue a notice of consultation in which it will call for comments on how to structure and conduct such group-based renewals, taking into account systemic changes in the broadcasting industry, including those relating to the horizontal and vertical integration that has taken place throughout a number of its sectors, and the transition to digital technology. The aim is to establish an overall regulatory framework that provides all broadcast groups with the flexibility to adapt to the rapidly changing communications environment, while ensuring that the Canadian broadcasting system is distinctly Canadian in its content.
5. In the interim, in light of all of the above, the Commission is predisposed at this time to issue short-term one-year licences, which will allow it to consider, in the spring of 2010, group-based (conventional and discretionary) licence renewals. Further, the Commission will reduce the scope of the public hearing scheduled for the spring of 2009 to the following key issues:
 - the appropriate contributions to Canadian programming (local, priority and independently-produced programming), given the current economic conditions;
 - the terms of administration and delivery of the LPIF, including the method of establishing the base-level expenditures for the purpose of determining incrementality;
 - whether to impose a 1:1 ratio requirement between Canadian and non-Canadian programming expenditures, both on a trial basis during a short-term licence, and on a longer-term basis; and
 - consideration of the terms for the digital transition by August 2011, in light of an industry working group report being prepared for the current public process.
6. Licensees are directed to address these issues by responding to the questions set out in the following section (Contributions to Canadian Programming) and submit their responses to the Commission by no later than **23 February 2009**. Licensees should also indicate if they are requesting amendments to any existing conditions of licence, and the reasons for these requests. The Commission intends to retain all other conditions of licence as they currently apply. The Commission further notes that it may consider longer licence terms for certain licensees based on the particular circumstances and positions set out by those licensees.
7. Licensees will be advised as to which outstanding deficiency and/or clarification requests remain relevant, given the reduced scope of this proceeding. The Commission intends to issue a notice of consultation in early March 2009 in which it will make available for public comment the conventional television licence renewal applications. The public hearing noted in the 30 January 2009 news release is scheduled to begin **27 April 2009**.

Contributions to Canadian programming

Local programming

8. In regard to local programming:
- What are appropriate local programming obligations for the short term, given the current economic climate?
 - Should local programming obligations be harmonized, with minimum levels based on market size rather than historical commitments?

Local Programming Improvement Fund

9. In *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008, the Commission established the LPIF to improve the quality of local programming provided by conventional television stations serving non-metropolitan markets of less than one million people. The use of LPIF funding must be incremental to current expenditures on local programming; the Commission will calculate the current base level of local programming expenditures by averaging a station's expenditures for the past three broadcast years.
- Given the severity of the current economic downturn, should the LPIF incrementality criteria, or the approach to determining the base levels for incrementality, be revised?

Priority programming

10. The large multi-station groups are required to broadcast, on average, at least eight hours per week of priority Canadian programs, such as drama and documentaries, during the peak viewing periods between 7 p.m. and 11 p.m.
- Should the Commission continue to require a minimum level of priority programming in the short term?
 - If the Commission were prepared to consider the elimination of existing priority program obligations, should there be requirements for minimum amounts of original hours of specific types of programming, such as drama or documentaries?

English-language Canadian programming expenditures

11. In *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007 (the 2007 Conventional Television Policy), the Commission stated that the continuing reduction, by English-language conventional television licensees, in Canadian

programming expenditures as a proportion of total programming expenditures was cause for concern.

12. This concern has only intensified as a result of the 2008 data released on 10 February 2009, which show that private broadcasters' spending on Canadian programming was relatively stable, whereas spending on foreign programming rose by 7.4% over 2007 levels.
13. At the group-based renewals scheduled for April 2010, the Commission intends to address these concerns with a view to implementing effective regulatory mechanisms to ensure that private ownership groups with television licences contribute appropriately to the creation of Canadian programming.
 - Please comment on the effectiveness of a condition of licence requiring a specific ratio between Canadian and non-Canadian programming expenditures. The Commission at first blush finds a lot of merit in the idea of imposing a condition of licence on English-language broadcasters requiring a 1:1 ratio between Canadian and non-Canadian programming expenditures. If a decision on a ratio is adopted, should it be imposed on a trial basis for the upcoming one-year licence term or on a long term basis following the upcoming April 2010 hearing?
 - Licensees may submit confidential financial evidence, one week prior to the public hearing, setting out the respective costs and revenues of Canadian and non-Canadian programming, in order to demonstrate the potential impact that such a requirement might have on their business plans.

Independent production

14. Large English-language television station groups are expected to ensure that at least 75% of the priority programming they broadcast is produced by independent production companies; for its part, Group TVA inc. is expected to allocate minimum annual expenditures for independently-produced French-language programming.
 - Are the current approaches to support the broadcast, by conventional television stations, of independently-produced programming effective?
 - Should other approaches be considered in the short term?

Terms of trade

15. In the 2007 Conventional Television Policy, the Commission stated that terms of trade agreements between broadcasters and independent producers would provide stability and clarity to all concerned, and that it expected licensees to submit terms of trade agreements as part of their licence renewal applications.
 - What is the status of the terms of trade agreements, and when will these agreements be implemented?

Disclosure of aggregate financial data

16. Pursuant to *Disclosure of aggregate financial data for large broadcasting distribution undertakings and over-the-air television and radio ownership groups* – Regulatory policy, Broadcasting Public Notice CRTC 2008-97, 21 October 2008, Canwest Media Inc., CTVglobemedia Inc., Quebecor Media Inc., and Rogers Communications Inc., where they have not already done so, are hereby directed to submit the annual returns of their conventional television undertakings in aggregate form in accordance with the terms set out in that public notice, for inclusion on the public file of this proceeding.

Secretary General

This document 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>.