



## Broadcasting Regulatory Policy CRTC 2010-786

PDF version

Route reference: 2010-621

Ottawa, 25 October 2010

### Standard conditions of licence, expectations and encouragements for Category B pay and specialty services

*In this document, the Commission sets out standard conditions of licence, expectations and encouragements for Category B pay and specialty services. These replace those set out in Public Notice 2000-171-1, as well as those relating to accessibility set out in Broadcasting Regulatory Policy 2010-355, and will apply only to new applications for Category B pay and specialty services as well as applications currently under consideration by the Commission but not gazetted as of the date of this regulatory policy.*

#### Introduction

1. In Broadcasting Notice of Consultation 2010-621, the Commission issued a call for comments (the Call) on standard conditions of licence and expectations for Category B services<sup>1</sup> and on certain minor changes to its approach to the licensing of those services. In addition to the objective of streamlining the processing of applications for such services, the Commission considered it appropriate to update the standard conditions of licence that govern these services, currently set out in Public Notice 2000-171-1, prior to the first round of licence renewals for such services.
2. The Commission received several comments from various licensees of Category B services, as well as a comment from Media Access Canada (MAC). The comments 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

3. After examining the comments received, the Commission considers that the issues to be addressed in making its determinations relate to the following:
  - the definition of "broadcast day";
  - the continued consideration of Category B pay services;

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<sup>1</sup> As set out in Broadcasting Public Notice 2008-100, Category 2 services will be renamed Category B services effective 31 August 2011. The term "Category B" is used in this regulatory policy to encompass Category 2 services.

- the number of applications from a same party that the Commission is prepared to consider at any one time;
- the deadline for approved Category B services to commence operations;
- new streamlined procedures;
- the filing of program supply agreements and/or licence or trademark agreements;
- accessibility; and
- local advertising by third-language broadcasters.

**Definition of “broadcast day”**

4. Applicants for Category B specialty services have been given the option of choosing either an 18- or 24-hour broadcast day. In the Call, the Commission expressed the view that a common, 18-hour broadcast day (i.e., the period of up to 18 consecutive hours, beginning each day not earlier than six o’clock in the morning and ending not later than one o’clock in the morning of the following day) should be established for all Category B services.
5. Astral Media inc. (Astral), Avis de Recherche incorporée/All Points Bulletin Inc. (APB), High Fidelity HDTV Inc. (High Fidelity) and Quebecor Media Inc. (Quebecor) all argued that there is no real problem to be fixed and that there would be no proven benefit resulting from a common 18-hour broadcast day. Further, the parties stated that the proposal would create an undue administrative burden, for example, in terms of logging and software issues. They also noted that the adoption of a common definition of the broadcast day for all services would reduce flexibility required by individual services to take into consideration the nature of their services and viewers’ preferences.
6. Upon reviewing the comments received in this regard, the Commission is of the view that a change to its long-standing practice of permitting applicants to choose the definition of “broadcast day” for proposed Category B services would likely cause unnecessary administrative issues for licensees. Accordingly, applicants for Category B services will continue to be given the option of choosing either an 18- or 24-hour broadcast day for their proposed services.

**Continued consideration of Category B pay services**

7. In the Call, the Commission expressed the preliminary view that it was no longer necessary to distinguish between Category B specialty and Category B pay services. Accordingly, in the Call, the Commission proposed henceforth to license only Category B specialty services, subject to the standard conditions of licence to be established as a result of this proceeding. In this regard, the Commission noted that

nothing would prevent such Category B services from pricing and marketing themselves as premium advertising-free services.

8. In their comments, both Astral and Télévision Sex-Shop inc. opposed the proposed change, noting that the Canadian content requirement would be higher, and that there would be no Canadian programming expenditure requirement. They also noted that both program rights (windows) and “premium” distribution are negotiated differently for each type of service, that the regulations governing pay and specialty services are different, which begs the question of which would apply (or which aspects of each would apply, for example, for “multiplexing”), and that it is unfair to change the rules midstream.
9. Upon reflection, and based on the concerns expressed by interveners, the Commission determines that it will continue to license Category B pay services. Accordingly, the Commission has set out standard conditions of licence, expectations and encouragements for such services.<sup>2</sup> Consistent with the licensing framework, applicants for Category B pay services will be expected to propose Canadian content exhibition and expenditure commitments comparable to those of existing pay services. The Commission will also expect such applicants to demonstrate why a licence for a pay service would be more appropriate than a licence for a specialty service.

**Number of applications from a same party that the Commission is prepared to consider at any one time**

10. In the Call, the Commission expressed its concern regarding the practice of some applicants to file multiple Category B applications at a given time, including some that have the same nature of service definition. Accordingly, the Commission proposed to limit to five (5) the number of applications for Category B services that it would consider from any one applicant at a given time, and stated its expectation that applicants would demonstrate that the proposed services are distinct from each other.
11. Corus Entertainment Inc. and Rogers Broadcasting Limited (Corus/Rogers) jointly opposed the proposal to limit the number of applications to five, arguing that this number is an arbitrary cap, but supported the requirement that the services for which applications are submitted be “distinct.” APB recommended that the five applications be for services that would be operating “in the same language.” Ethnic Channels Group Limited (ECGL) supported a limit of five applications, unless the applicant could prove more are warranted, but opposed the requirement that the services for which the applications are submitted be distinct. Quebecor supported the proposed cap, but recommended that “at any given time” be precisely defined.
12. Mindful of the importance of ensuring that limited resources are put to the best and most efficient use, both within the Commission and throughout the industry, the Commission determines that the above-noted filing practices should be limited. In

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<sup>2</sup> See Appendix 2 to this regulatory policy.

coming to this conclusion, the Commission has also taken into consideration the fact that only a small proportion of approved Category B services become operational. Accordingly, the Commission will only be prepared to consider five applications for new Category B services, in any language, from any one applicant at a given time, that is, at any stage in the process during which such applications are considered. Should an applicant with five applications under consideration wish to file an application for another service, it will be permitted to withdraw one of those five applications in order for the new application to be considered. Further, the Commission will expect an applicant to demonstrate that the proposed Category B services are distinct from each other. Applications that do not meet these conditions will be returned.

#### **Deadline for approved Category B services to commence operations**

13. The Commission's approach to Category B services has been to require that these services launch within three years of their approval. In practice, the Commission has also granted a single-year extension to that launch deadline upon written request to the Commission, with such requests to be made 60 days in advance of the original launch deadline. To avoid administrative burden, the Commission set out its view in the Call that all new Category B services should launch within four (4) years of their approval, with no opportunity for extension.
14. In their comments, APB and Corus/Rogers recommended that the Commission retain the ability to grant extensions beyond four years in exceptional circumstances. The latter further argued that requiring an applicant for a Category B service to file a new application for a same proposed service, rather than granting limited exceptions, creates additional work.
15. The Commission notes that it has not generally granted exceptions beyond the "three plus one" years currently in force, and, as indicated in the Call, does not intend to grant any in the future. Accordingly, the Commission determines that an approved Category B service will be required to launch within four years of the date of the decision in which the proposed service is approved. Accordingly, a licence will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations and has provided the Commission with its launch date.

#### **New streamlined procedures**

16. To further ensure that limited resources are put to the best and most efficient use, the Commission emphasizes the need for applicants to provide complete applications. Further, the onus is on applicants to ensure that their applications are indeed complete. Consistent with the procedures set out in Broadcasting Public Notice 2004-24, this means that applicants must respond, to the Commission's satisfaction, to all questions included in the application form, and must demonstrate in their application why their proposed service should not be considered competitive with

Category A<sup>3</sup> services by virtue of a sufficiently specific nature of service definition. Accordingly, in the Call, the Commission stated that any application deemed incomplete would be returned.

17. Corus/Rogers opposed this proposal by arguing that a simple deficiency process is less administratively burdensome than returning an application. ECGL argued that Commission staff should not be making such determinations as this would involve “substantive judgment” that should be based on consideration of interventions and replies.
18. The Commission notes that the recent application of the streamlined procedures set out above has received very little negative reaction from applicants. Further, this practice would only apply to applications that are clearly deficient (for example, those for which the nature of service definitions contain insufficient detail or are incomprehensible), and not to those containing minor discrepancies (for example, when an applicant has not made a choice as to the length of the broadcast day for a proposed service). Finally, the Commission considers that Commission staff is fully able to determine when an application is clearly deficient and requires revision by the applicant. Accordingly, the Commission determines that any application deemed incomplete by Commission staff will be returned to the applicant. In this regard, the Commission notes that Commission staff will continue to ensure that applicants are provided with sufficient guidance so that they may determine, for example, what constitutes a “complete” application or a “sufficiently specific” nature of service definition.

#### **Filing of program supply agreements and/or licence or trademark agreements**

19. Currently, the following standard condition of licence is imposed on all Category B services as a means of ensuring that the Commission can scrutinize business arrangements with non-Canadians to ensure that services are controlled by Canadians, in conformity with the *Direction to the CRTC (Ineligibility of non-Canadians)*:

In order to ensure that the licensee complies at all times with 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 licensee shall file, for the Commission’s prior review, a copy of any programming supply agreement and/or licence trademark agreement it intends to enter into with a non-Canadian party.

20. The larger broadcasters that provided comments opposed the inclusion of this condition of licence as a standard condition of licence, particularly as worded. While they recognized the Commission’s intent, they expressed concern that it was too broad (i.e., requiring the filing of “any” agreements, most of which have no impact on “control”), that it would result in huge amounts of paperwork, and that it could

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<sup>3</sup> As set out in Broadcasting Public Notice 2008-100, Category 1 and analog pay and specialty services will be renamed Category A services effective 31 August 2011. The term “Category A” is used in this regulatory policy to encompass Category 1 and analog pay and specialty services.

unduly delay programming negotiations. In regard to specific aspects of the condition of licence, Astral proposed that it be “on demand,” whereas Rogers/Corus proposed the filing of executed agreements “within thirty days.” Finally, CTV Inc. noted that the Commission can always request such agreements “should a concern arise.”

21. The Commission notes that the review of such business agreements is important for the purposes of establishing control, and that the principal concern raised by the broadcasters was related in particular to the objection to file agreements for “prior review.” The Commission therefore amends the condition of licence in question to require that licensees submit the specified documentation, for Commission review, thirty (30) days after it is signed. This condition of licence shall now read as follows (changes in bold):

In order to ensure that the licensee complies at all times with 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 licensee shall file, **within 30 days of its execution, for the Commission’s review**, a copy of **the** programming supply agreement and/or licence **or** trademark agreement it **has entered** into with a non-Canadian party. **In addition, the Commission may request any additional document(s) that could affect control of the programming or management of the service.**

#### **Accessibility**

22. To implement its accessibility policy set out in Broadcasting Regulatory Policy 2009-430, the Commission set out, in Broadcasting Regulatory Policy 2010-355, standard conditions of licence, expectations and an encouragement concerning accessibility of programming for Category 2 services, which include a condition of licence relating to the closed captioning of advertising, sponsorship messages and promos.
23. High Fidelity and ECGL generally opposed the application of one or more of the standard conditions of licence and expectations set out in the Call, arguing that they were too onerous for smaller independent broadcasters. ECGL further requested flexibility for closed captioning and that the obligation to provide audio description<sup>4</sup> be limited to programs produced or commissioned by the licensee. High Fidelity, for its part, stated that all requirements should be presented as encouragements. MAC argued in favour of clearer, more enforceable and enforced access obligations through conditions of licence, rather than expectations or encouragements.
24. In regard to adherence to obligations, the Commission notes that the requirements of its accessibility policy have been developed through considerable consultation.

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<sup>4</sup> For the purpose of the condition of licence relating to this, “audio description” refers to announcers reading aloud the key textual and graphic information that is displayed on the screen during news and information programs that form part of the main programming presented by the host of a news or information program.

Further, requirements for Category B services are consistent not only with the accessibility policy, but also with section 3(1)(p) of the *Broadcasting Act* as well as human rights jurisprudence. These requirements reflect the long-standing Commission position that “reasonable accommodation” is the cost of doing business.

25. In regard to requests for flexibility, the Commission notes that applicants are permitted to propose alternative accessibility commitments (with specific, detailed financial evidence to justify exception). Further, limiting audio description to licensee produced or commissioned programming (as proposed by ECGL) would not be problematic given that audio description is only applicable to news and information programming (which tend to be under the licensee’s creative control).
26. The Commission further notes that reporting and monitoring are already significant, given that licensees must currently do the following:
- report closed captioning and described video in Commission logs;
  - develop procedures for the quality control of closed captioning;
  - implement a monitoring system for closed captioning;
  - adhere to closed captioning universal standards, once approved (to be filed in January 2011); and
  - address compliance matters identified via complaints and at licence renewals.
27. Accordingly, the Commission determines that no changes should be made to the overall approach to accessibility concerns or to the standard accessibility conditions of licence, expectations and encouragement. In regard to audio description, the Commission acknowledges that it may be difficult to ensure that all news and information programming, and, in particular, programming acquired from non-Canadians, is audio described. The Commission therefore considers it appropriate to add the word “Canadian” to the condition of licence relating to audio description, so that it read as follows (change in bold):

The licensee shall provide audio description for all the key elements of **Canadian** information programs, including news programming. For the purposes of this condition of licence, “audio description” refers to announcers reading aloud the key textual and graphic information that is displayed on the screen during information programs.

#### **Local advertising by third-language broadcasters**

28. ECGL recommended that the standard conditions of licence explicitly recognize that third-language broadcasters are generally permitted to broadcast six minutes of local advertising per clock hour.

29. In Broadcasting Public Notice 2005-104, the Commission stated that it would generally permit third-language broadcasters to broadcast six minutes of local advertising per clock hour unless an intervener makes a compelling case to the contrary. Accordingly, the Commission does not consider that it would be appropriate to include the above as a standard condition of licence, but instead that its current practice in this regard, as set out in Broadcasting Public Notice 2005-104, should be continued.

## **Conclusion**

30. In light of all of the above, the Commission sets out, in Appendix 1 to this regulatory policy, standard conditions of licence, expectations and encouragements for Category B specialty services, and, in Appendix 2, standard conditions of licence, expectations and encouragements for Category B pay services.

31. The Commission notes that the condition of licence, expectations and encouragements set out in the appendices to this regulatory policy replace those set out in Public Notice 2000-171-1, as well as those relating to accessibility set out in Broadcasting Regulatory Policy 2010-355. These standard conditions of licence, expectations and encouragements will apply only to new applications for Category B pay and specialty services, as well as applications currently under consideration by the Commission but not gazetted as of the date of this regulatory policy.

Secretary General

## **Related Documents**

- *Call for comments on standard conditions of licence and expectations for Category B services*, Broadcasting Notice of Consultation CRTC 2010-621, 26 August 2010
- *Implementation of the Accessibility Policy with respect to new Category 2 pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-355, 8 June 2010
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Revised approach for the consideration of broadcasting licence applications proposing new third-language ethnic Category 2 pay and specialty services*, Broadcasting Public Notice CRTC 2005-104, 23 November 2005



- *Revised procedures for processing applications for new digital Category 2 pay and specialty television services*, Broadcasting Public Notice CRTC 2004-24, 8 April 2004
- *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Broadcasting Public Notice CRTC 2000-171-1, 6 March 2001

# Appendix 1 to Broadcasting Regulatory Policy CRTC 2010-786

## Standard conditions of licence, expectations and encouragements for Category B specialty services

### General

The following terms and conditions of licence are applicable to all Category B specialty services, except where an authorization which represents a change from or addition to these terms and conditions is included in the decision granting a particular licence.

Category B specialty services are also subject to the *Specialty Services Regulations, 1990*.

The distribution of Category B specialty services is subject to the applicable distribution rules set out in *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008.

### Conditions of licence

1. The licensee shall adhere to the Canadian Association of Broadcasters' (CAB) *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
2. The licensee shall adhere to the *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.
3. The licensee shall adhere to the *CAB Violence Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
4. The licensee shall caption 100% of the English- and French-language programs broadcast over the broadcast day, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
5. In accordance with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, the licensee shall:
  - ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the fourth year of the licence term;

- adhere to the quality standards on closed captioning developed by television industry working groups, as amended from time to time and approved by the Commission; and
  - implement a monitoring system to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form. “Original form” means, at a minimum, that the captioning provided by the licensee reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition.
6. The licensee shall provide audio description for all the key elements of Canadian information programs, including news programming. For the purposes of this condition of licence, “audio description” refers to announcers reading aloud the key textual and graphic information that is displayed on the screen during information programs.
  7. In regard to the broadcast of advertising material:
    - a) Except as otherwise provided in subparagraphs b) and c), the licensee shall not broadcast more than twelve (12) minutes of advertising material during each clock hour.
    - b) Where a program occupies time in two or more consecutive clock hours, the licensee may exceed the maximum number of minutes of advertising material allowed in those clock hours if the average number of minutes of advertising material in the clock hours occupied by the program does not exceed the maximum number of minutes that would otherwise be allowed per clock hour.
    - c) In addition to the twelve (12) minutes of advertising material referred to in subparagraph a), the licensee may broadcast partisan political advertising during an election period.
    - d) The licensee shall not broadcast any paid advertising material other than national paid advertising.
  8. The licensee is authorized to make available for distribution both a standard definition and a high definition version of its service, provided that not less than 95% of the video and audio components of the high definition and standard definition versions of the service are the same, exclusive of commercial messages and of any part of the service carried on a subsidiary signal. Further, all of the programming making up the 5% allowance shall be provided in high definition.
  9. In order to ensure that the licensee complies at all times with 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 licensee shall file, within 30 days of its execution, for the Commission’s review, a copy of the programming supply agreement and/or

licence or trademark agreement it has entered into with a non-Canadian party. In addition, the Commission may request any additional document(s) that could affect control of the programming or management of the service.

10. If the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.
11. If the licensee broadcasts adult programming, the licensee shall adhere to section D.3 of the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003.

**For English- or French-language (or both) services only**

12. In regard to the broadcast of Canadian programs:
  - a) In the first year of operation, the licensee shall devote not less than 15% of the broadcast year and of the evening broadcast period to the broadcast of Canadian programs.
  - b) In the second year of operation, the licensee shall devote not less than 25% of the broadcast year and of the evening broadcast period to the broadcast of Canadian programs.
  - c) In the third year of operation, and in each broadcast year thereafter, the licensee shall devote not less than 35% of the broadcast year and of the evening broadcast period to the broadcast of Canadian programs.

**For ethnic/third-language services only**

13. In each broadcast year or portion thereof, the licensee shall devote not less than 15% of the broadcast year and of the evening broadcast period to the broadcast of Canadian programs.

**For music video services only**

14. In addition to the minimum levels of Canadian content set out in conditions of licence 12 and 13 above, the licensee shall devote not less than:
  - a) In the first year of operation, the licensee shall devote not less than 20% of the total number of music videos broadcast during each broadcast week to Canadian music videos.
  - b) In the second year of operation, the licensee shall devote not less than 25% of the total number of music videos broadcast during each broadcast week to Canadian music videos.

- c) In the third year of operation, and in each broadcast year thereafter, the licensee shall devote not less than 30% of the total number of music videos broadcast during each broadcast week to Canadian music videos.

For the purposes of these conditions of licence, all time periods shall be calculated according to Eastern Standard Time. Further,

- “Broadcast year,” “broadcast month,” “evening broadcast period” and “clock hour” shall have the same meanings as those set out in the *Television Broadcasting Regulations, 1987*.
- “Broadcast week” shall have the same meaning as that set out in the *Radio Regulations, 1986*.
- “First year of operation” and “Year 1” shall mean the period in which the licensee is first in operation for a period exceeding 90 days, excluding any free trial period, and ending on 31 August of that calendar year.
- “Second year of operation” and “Year 2” and corresponding terms referring to subsequent years of operation shall mean the broadcast year or years following the first year of operation.
- “Paid national advertising” shall mean advertising material as defined under the *Specialty Services Regulations, 1990* and that is purchased at a national rate and receives national distribution on the service.

## **Expectations**

### **Accessibility**

The Commission expects the licensee to acquire and make available described versions of programming whenever possible.

Further, the licensee is expected to:

- display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program; and
- make information available regarding the described programs that it will broadcast.

### **On-screen portrayal of ethnocultural minorities, Aboriginal peoples, and persons with disabilities**

The Commission expects the licensee to endeavour, through its programming and employment opportunities, to reflect the presence in Canada of ethnocultural minorities, Aboriginal peoples, and persons with disabilities. The Commission further expects the

licensee to ensure that the on-screen portrayal of such groups is accurate, fair and non-stereotypical.

### **Employment equity**

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992 (Public Notice 1992-59), licensees with 100 or more employees are subject to the *1996 Employment Equity Act*. If the licensee has between 25 and 99 employees, the Commission expects the licensee to have in place an employment equity plan that addresses the equitable representation of the four designated groups (women, Aboriginal peoples, persons with disabilities and visible minorities), as set out in Public Notice 1992-59 and in *Amendments to the Commission's Employment Equity Policy*, Public Notice CRTC 1997-34, 2 April 1997.

In implementing its employment equity plan, the Commission further expects the licensee to:

- ensure that the details of the licensee's employment equity policies are communicated to managers and staff;
- assign a senior level person to be responsible for tracking progress and monitoring results; and
- dedicate financial resources to the promotion of employment equity in the workplace.

### **Broadcast of adult programming**

If the licensee broadcasts adult programming, the Commission expects the licensee to provide its proposed internal policy on adult programming at least one month prior to the implementation of the service, as required by the Commission in *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003. The Commission further expects that any future changes made by the licensee to its internal policy on adult programming will be submitted for Commission approval prior to their implementation.

The Commission expects the licensee to adhere to its internal policy on adult programming once reviewed and approved by the Commission.

### **Encouragements**

The Commission encourages the licensee to repeat the standard described video logo and audio announcement indicating the presence of described video following each commercial break.

If the licensee has fewer than 25 employees, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

## **Appendix 2 to Broadcasting Regulatory Policy CRTC 2010-786**

### **Standard conditions of licence, expectations and encouragements for Category B pay services**

#### **General**

The following terms and conditions of licence are applicable to all Category B pay services, except where an authorization which represents a change from or addition to these terms and conditions is included in the decision granting a particular licence.

Category B pay services are also subject to the *Pay Television Regulations, 1990*.

The distribution of Category B pay services is subject to the applicable distribution rules set out in *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008.

#### **Conditions of licence**

1. The licensee shall adhere to the Canadian Association of Broadcasters' (CAB) *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
2. The licensee shall adhere to the *Pay television and pay-per-view programming code regarding violence*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
3. The licensee shall adhere to the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
4. The licensee shall caption 100% of the English- and French-language programs broadcast over the broadcast day, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
5. In accordance with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, the licensee shall:

- ensure that sponsorship messages and promos in the English and French languages are closed captioned by no later than the fourth year of the licence term;
  - adhere to the quality standards on closed captioning developed by television industry working groups, as amended from time to time and approved by the Commission; and
  - implement a monitoring system to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form. “Original form” means, at a minimum, that the captioning provided by the licensee reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition.
6. The licensee shall provide audio description for all the key elements of Canadian information programs, including news programming. For the purposes of this condition of licence, “audio description” refers to announcers reading aloud the key textual and graphic information that is displayed on the screen during information programs.
  7. The licensee is authorized to make available for distribution both a standard definition and a high definition version of its service, provided that not less than 95% of the video and audio components of the high definition and standard definition versions of the service are the same, exclusive of commercial messages and of any part of the service carried on a subsidiary signal. Further, all of the programming making up the 5% allowance shall be provided in high definition.
  8. In order to ensure that the licensee complies at all times with 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 licensee shall file, within 30 days of its execution, for the Commission’s review, a copy of the programming supply agreement and/or licence or trademark agreement it has entered into with a non-Canadian party. In addition, the Commission may request any additional document(s) that could affect control of the programming or management of the service.
  9. If the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.

For the purposes of these conditions of licence, all time periods shall be calculated according to Eastern Standard Time. Further,



- “Broadcast year,” “broadcast month,” “evening broadcast period” and “clock hour” shall have the same meanings as those set out in the *Television Broadcasting Regulations, 1987*.
- “Broadcast week” shall have the same meaning as that set out in the *Radio Regulations, 1986*.
- “First year of operation” and “Year 1” shall mean the period in which the licensee is first in operation for a period exceeding 90 days, excluding any free trial period, and ending on 31 August of that calendar year.
- “Second year of operation” and “Year 2” and corresponding terms referring to subsequent years of operation shall mean the broadcast year or years following the first year of operation.

## **Expectations**

### **Accessibility**

The Commission expects the licensee to acquire and make available described versions of programming whenever possible.

Further, the licensee is expected to:

- display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program; and
- make information available regarding the described programs that it will broadcast.

### **On-screen portrayal of ethnocultural minorities, Aboriginal peoples, and persons with disabilities**

The Commission expects the licensee to endeavour, through its programming and employment opportunities, to reflect the presence in Canada of ethnocultural minorities, Aboriginal peoples, and persons with disabilities. The Commission further expects the licensee to ensure that the on-screen portrayal of such groups is accurate, fair and non-stereotypical.

### **Employment equity**

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992 (Public Notice 1992-59), licensees with 100 or more employees are subject to the *1996 Employment Equity Act*. If the licensee has between 25 and 99 employees, the Commission expects the licensee to have in place an employment equity plan that addresses the equitable representation of the four designated groups (women, Aboriginal peoples, persons with disabilities and visible minorities), as set out in Public Notice 1992-59 and in *Amendments to the Commission’s Employment Equity Policy*, Public Notice CRTC 1997-34, 2 April 1997.

In implementing its employment equity plan, the Commission further expects the licensee to:

- ensure that the details of the licensee's employment equity policies are communicated to managers and staff;
- assign a senior level person to be responsible for tracking progress and monitoring results; and
- dedicate financial resources to the promotion of employment equity in the workplace.

### **Broadcast of adult programming**

If the licensee broadcasts adult programming, the Commission expects the licensee to provide its proposed internal policy on adult programming at least one month prior to the implementation of the service, as required by the Commission in *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003. The Commission further expects that any future changes made by the licensee to its internal policy on adult programming will be submitted for Commission approval prior to their implementation.

The Commission expects the licensee to adhere to its internal policy on adult programming once reviewed and approved by the Commission.

### **Encouragements**

The Commission encourages the licensee to repeat the standard described video logo and audio announcement indicating the presence of described video following each commercial break.

If the licensee has fewer than 25 employees, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.