



Broadcasting Decision CRTC 2010-875

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CTV Limited
Across Canada

Application 2010-0503-3, received 23 March 2010

MuchMusic – Licence amendments

*In regard to an application by CTV Limited to amend the broadcasting licence for the national, English-language specialty service known as MuchMusic, the Commission **denies** requests by the licensee to amend conditions of licence relating to MuchMusic's nature of service, pertaining specifically to the following:*

- *the inclusion of lifestyle programming in MuchMusic's nature of service and a proposed target audience for such programming;*
- *the amount of music video clips that are to be broadcast on the service each broadcast week; and*
- *the amount and nature of programming broadcast on the service that may be drawn from program categories 7(a) Ongoing dramatic series and 7(e) Animated television programs and films.*

*In addition, the Commission **denies** requests by the licensee to amend conditions of licence relating to MuchMusic's programming commitments, pertaining specifically to the following:*

- *the minimum level of Canadian programming that must be broadcast on the service;*
- *the exhibition of French-language music videos on the service; and*
- *the amount of the service's contribution to the MuchFACT fund.*

*Finally, the Commission **approves** requests by the licensee relating to the following:*

- *a condition of licence for the service whereby no more than 10% of the programming drawn from program category 7(d) Theatrical feature films aired on TV and broadcast during the broadcast month may be devoted to music-related programming from that program category;*
- *the addition of program categories to the list of categories from which the service may draw programming; and*
- *the adoption of an "18-hour broadcast day" for the service.*

Introduction

1. The Commission received an application by CTV Limited (CTV) to amend the broadcasting licence for the national, English-language specialty programming undertaking known as MuchMusic. The proposed amendments, details of which are set out in the sections to follow, relate to the following:
 - conditions of licence relating to MuchMusic’s nature of service, pertaining specifically to the inclusion of lifestyle programming in its nature of service and a proposed target audience for such programming; the amount and nature of programming that may be drawn from certain program categories; and the amount of music video clips that are to be broadcast on the service each broadcast week;¹
 - conditions of licence relating to MuchMusic’s programming commitments, pertaining specifically to the broadcast of Canadian programming; the exhibition of French-language music videos; and the service’s contribution to the MuchFACT fund;
 - the addition of program categories to the list of categories from which the service may draw programming;² and
 - the definition of “broadcast day” that would apply to the service.
2. CTV stated that the proposed amendments would permit MuchMusic to adapt to the business realities of audience fragmentation and changing technologies by providing programming that is relevant to the service’s core audience of young adult viewers.
3. The Commission received numerous interventions in support of the application, an intervention offering general comments, as well as several interventions in opposition to the application. CTV replied collectively to the comments and the interventions in opposition. The interventions and the licensee’s reply are available on the Commission’s website at www.crtc.gc.ca under “Public Proceedings.”

Commission’s analysis and determinations

4. After considering the application in light of applicable regulations and policies, and taking into account the interventions received and the licensee’s reply, the Commission considers that the issues to be addressed in its determinations relate to the following:

¹ The conditions of licence for MuchMusic referred to in the present decision are set out in Broadcasting Decision 2006-380.

² The full list of program categories is set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*.

- amendments to certain conditions of licence relating to MuchMusic's nature of service and programming commitments;
- an amendment to MuchMusic's condition of licence relating to programming drawn from program category 7(d);
- the addition of program categories to the list of categories from which MuchMusic may draw programming; and
- the definition of "broadcast day" as it applies to the service.

Amendments to certain conditions of licence relating to MuchMusic's nature of service and programming commitments

Conditions of licence relating to MuchMusic's nature of service

5. In regard to MuchMusic's nature of service, the licensee requested amendments to its conditions of licence relating to the following:
 - the inclusion of lifestyle programming in MuchMusic's nature of service and a proposed target audience for such programming;
 - the amount of music video clips that are to be broadcast on the service each broadcast week; and
 - the amount and nature of programming drawn from program categories 7(a) and 7(e).

Inclusion of lifestyle programming in MuchMusic's nature of service and a proposed target audience for such programming

6. The conditions of licence that set out MuchMusic's nature of service currently read as follows:

1.(a) The licensee shall provide a national, English-language specialty programming service consisting only of music or music-related programming, except as provided by condition of licence No. 5.

5. Notwithstanding condition of licence No. 1, the licensee shall devote no more than 5% of the broadcast week to programming from Category 2(a) and 2(b) combined, except as individually authorized in writing by the Commission for extended coverage of special events.

7. CTV proposed that these conditions of licence be replaced by the following:

The licensee shall provide a national, English-language specialty programming service with a focus on music, music-related and lifestyle programming for young adults. The target audience for the service shall be Canadians between the ages of 18 and 34, with a core demographic of Canadians between the ages of 18 and 24.

A minimum of 75% of the programming broadcast by the service shall be music-related.

8. The licensee stated that the proposed amendments would better position the service to adapt to the business realities of audience fragmentation and evolving technologies.

Interventions

9. Rogers Broadcasting Limited (Rogers) opposed the proposed amendment, arguing that it would allow MuchMusic to reorient itself from a music-based service into a lifestyle-type service targeting young adults.
10. The Canadian Independent Music Association (CIMA), the Canadian Conference of the Arts (CCA), l'Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), the Society of Composers, Authors and Music Publishers of Canada (SOCAN), the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), the American Federation of Musicians, Canada (AFM), the Canadian Recording Industry Association (CRIA), and the Music Managers Forum of Canada (MMF Canada) all opposed this amendment, submitting that MuchMusic would duplicate the programming of the Category A³ specialty service known as MTV2, the licence for which is also held by CTV. Furthermore, they argued that CTV committed to maintaining diversity across its services when it acquired CHUM Limited.⁴

Licensee's reply

11. In its reply, CTV stated that the proposed changes would not fundamentally alter the genre of the service. It further argued that MuchMusic's proposed commitment to broadcast a minimum of 75% music and music-related programming and 25% lifestyle programming rooted in music culture would prohibit the service from morphing into a lifestyle service.

Amount of music video clips that are to be broadcast on the service each broadcast week

12. The condition of licence relating to the exhibition of music video clips on MuchMusic currently reads as follows:

2. A minimum of 50% of MuchMusic's broadcast week shall be devoted to the exhibition of programming featuring music video clips – Category 8(b).

13. CTV proposed to replace this condition of licence with the following:

³ 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 the present decision to encompass Category 1 and analog pay and specialty services. MTV2 is a Category 1 specialty service.

⁴ See Broadcasting Decision 2007-165.

A minimum of 25% of MuchMusic's broadcast week shall be devoted to the exhibition of programming featuring music video clips – Category 8(b) and music video programs – Category 8(c).

14. The licensee stated that music videos no longer distinguish the service as they are readily available through other sources. Furthermore, it noted that the supply of music videos that the service can access has been greatly reduced in recent years.

Interventions

15. In their interventions, ACTRA and the AFM submitted that the commitment to music is being eroded and that the presence of new and emerging platforms does not eliminate the need for a service that has music at the core of its nature of service.

Licensee's reply

16. In its reply, CTV stated that music videos are declining as a program category and can no longer sustain the service over the long term. It cited data demonstrating that tuning to music video programming on MuchMusic has been consistently declining since 2005.

Amount and nature of programming drawn from program categories 7(a) and 7(e)

17. The condition of licence relating to the broadcast of programming drawn from program categories 7(a) and 7(e) currently reads as follows:

3. The licensee shall devote not more than 15% of the broadcast week to music-related programming from Categories 7(a) – Ongoing dramatic series and 7(e) – Animated television programs and films.

18. CTV proposed to replace this condition of licence with the following:

The licensee shall devote not more than 20% of the broadcast month to music-related and lifestyle programming from Categories 7(a) – Ongoing dramatic series and 7(e) – Animated television programs and films.

19. The licensee stated that the proposed amendment would better reflect the preferences of MuchMusic's target audience.

Interventions

20. In their interventions, ACTRA and the AFM opposed the proposed amendment but also stated that they would not be opposed if the additional programming was Canadian. For its part, the Canadian Film and Television Production Association (CFTPA) did not oppose the proposed amendment but requested that CTV be required to increase the amount of Canadian programming that would be broadcast in regard to these specific program categories.

Commission's analysis and determinations

21. Category A services are licensed on a one-per-genre basis.⁵ The Commission generally requires that such services be complementary and not compete directly with one another. In regard to the present application, the Commission considers that the proposed amendments to MuchMusic's nature of service would be significant enough to call into question the integrity of the Category A licensing framework.
22. Furthermore, in recent decisions the Commission denied requested amendments to nature of service definitions and identified the licence renewals for these services as the appropriate forum in which to discuss such amendments.⁶ Consistent with those decisions and with Broadcasting Public Notice 2008-100, the Commission is of the view that it would be more appropriate to consider the above proposed amendments to conditions of licence relating to MuchMusic's nature of service in the context of the service's next licence renewal.
23. Accordingly, the Commission **denies** the licensee's request to amend the above-noted conditions of licence relating to the nature of service for MuchMusic.

Conditions of licence relating to MuchMusic's programming commitments

24. In regard to MuchMusic's programming commitments, the licensee requested amendments to its conditions of licence relating to the following:
- the amount of Canadian programming that must be broadcast by MuchMusic;
 - the exhibition of French-language music videos; and
 - the licensee's contributions to the MuchFACT fund.

Amount of Canadian programming that must be broadcast by MuchMusic

25. The condition of licence relating to the amount of Canadian programming that must be broadcast by MuchMusic currently reads as follows:
6. The licensee shall devote to the distribution of Canadian programs not less than
- (a) 60% of the broadcast week and
- (b) 50% of the time from 6:00 p.m. to midnight (Eastern time) during each broadcast week.
26. CTV proposed to replace this condition of licence with the following:

The licensee shall devote to the distribution of Canadian programs not less than 55% of the broadcast year.

⁵ Genre exclusivity was maintained by the Commission in Broadcasting Public Notice 2008-100.

⁶ See, for example, Broadcasting Decisions 2009-569, 2010-466 and 2010-655.

27. The licensee stated that this flexibility is needed due to a limited supply of music-related content.

Interventions

28. In its intervention, Rogers argued that, should this amendment be approved, MuchMusic should no longer benefit from access and packaging rules. For its part, the CFTPA argued that the removal of the “prime-time” requirement would relegate Canadian programming to the daytime hours.

Licensee’s reply

29. In its reply, CTV submitted that the proposed reduction is not a significant one when compared to its current obligations and that it is in line with the Commission’s group-based licensing policy.⁷ It further indicated that it was prepared to devote 50% of the evening broadcast period to the broadcast of Canadian programs.

Exhibition of French-language music videos

30. CTV proposed the deletion of MuchMusic’s condition of licence relating to the exhibition of French-language music videos, which reads as follows:

9. In each broadcast week,

(a) not less than 5% of the total number of music videos distributed by the licensee shall be French-language music videos, or

(b) the licensee shall broadcast each weekday, a minimum of one half-hour video-oriented program, which will feature between three and five French-language music videos or performances per program.

31. The licensee stated that a requirement to broadcast French-language music videos on an English-language service is outdated, noting that today’s audiences are well-served by established French-language music services such as MusiquePlus and MusiMax.

Interventions

32. In its intervention, ADISQ argued that the current obligations are not excessive and that MuchMusic plays an important role in promoting and reflecting French-Canadian artists. CIMA, the CCA, ACTRA and the AFM shared these concerns, noting that MusiquePlus and Musimax were launched years ago and that MuchMusic’s obligations to air French-language videos were not called into question until now.

Licensee’s reply

⁷ See Broadcasting Regulatory Policy 2010-167.

33. In its reply, CTV argued that French-language videos now have a multitude of media sources to reach national and international audiences (i.e., Category 2 services, video-on-demand, Internet and mobile platforms).

Licensee's contributions to the MuchFACT fund

34. The portions of MuchMusic's Canadian programming expenditures condition of licence that deal with contributions to VideoFACT⁸ read as follows:

10. In accordance with the Commission's position on Canadian programming expenditures as set out in *New Flexibility With Regard to Canadian Program Expenditures by Canadian Television Stations*, Public Notice CRTC 1992-28, 8 April 1992, in *The Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-93, 22 June 1993, and in *Additional Clarification Regarding the Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-174, 10 December 1993:

(a) In each broadcast year of the licence term, the licensee shall allocate not less than 7% of the gross revenues derived from the operation of this service during the previous broadcast year to VideoFACT for the development and production of Canadian music videos.

(b) In each broadcast year of the licence term, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 33%, including 7% to VideoFACT, of the gross revenues derived from the operation of this service during the previous broadcast year.

35. CTV proposed to replace paragraphs (a) and (b) of this condition of licence with the following:

(a) In each broadcast year of the licence term, the licensee shall allocate not less than 3.5% of the gross revenues derived from the operation of this service during the previous broadcast year to MuchFACT for the development and production of Canadian music videos.

(b) In each broadcast year of the licence term, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 33%, including 3.5% to MuchFACT, of the gross revenues derived from the operation of this service during the previous broadcast year.

36. CTV stated that its proposal for a 50% reduction in contributions to MuchFACT would be consistent with its request to reduce the exhibition level of music videos by half.

⁸ VideoFACT changed its name to MuchFACT in September 2009. As noted on the [MuchFACT website](#), "MuchFACT is the groundbreaking music video, epk and website production fund exclusively funded by MuchMusic and MuchMore."

Interventions

37. The creative sector (CIMA, ACTRA, the AFM, ADISQ, the CCA, CRIA, MMF Canada and SOCAN) argued that funding the production of videos through MuchFACT benefits the industry and is not solely intended to benefit MuchMusic's programming supply. It further stated that MuchFACT finances video distribution on multiple platforms, not solely for broadcast on MuchMusic.

Licensee's reply

38. In its reply, CTV argued that its proposal is consistent with its demand to reduce the exhibition of music videos by 50% and that it strikes the right balance between continued support for a limited number of Canadian artists who require the funding and maintaining overall Canadian programming expenditures. The licensee further argued that redirecting 3.5% of the MuchFACT contribution to other types of Canadian music programming will support both artists and the broadcasting industry.

Commission's analysis and determinations

39. The Commission considers that the proposed amendments to MuchMusic's programming commitments would have an impact on its nature of service and, therefore, would typically be considered against the criteria discussed above relating to genre exclusivity and competition between services. Further, in Broadcasting Public Notice 2008-100, the Commission announced the following:

With respect to the programming obligations for pay and specialty services, the Commission considers it more appropriate to discuss these in detail at their licence renewals. This will give the licensees an opportunity to assess the impact of the new policies and regulations contained in this public notice and formulate their commitments accordingly.

40. Accordingly, as for the proposed amendments to the conditions of licence relating to MuchMusic's nature of service, the Commission is of the view that it would be more appropriate to consider the proposed amendments to conditions of licence relating to this service's programming commitments in the context of the service's next licence renewal.
41. The Commission therefore **denies** the licensee's request to amend the above-noted conditions of licence relating to MuchMusic's programming commitments.

Amendment to the condition of licence relating to programming drawn from program category 7(d)

42. MuchMusic's condition of licence relating to programming drawn from program category 7(d) currently reads as follows:

4. The licensee shall not distribute more than six hours of music-related Theatrical feature films aired on TV – Category 7(d) in each broadcast week.

43. CTV proposed to replace this condition of licence with the following:

The licensee shall devote not more than 10% of the broadcast month to music-related and lifestyle programming from Category 7(d) – Theatrical feature films aired on TV.

44. The licensee submitted that the proposed change to how the amount of programming drawn from program category 7(d) is measured better reflects the preferences of MuchMusic's target audience.

Commission's analysis and determinations

45. In Broadcasting Public Notice 2008-100, the Commission established a standard limitation of 10% of the broadcast month for programming drawn from program category 7(d) to ensure that the amount of programming drawn from this program category does not permit a service to morph into other established programming genres, and thus become directly competitive with other Category A services. The licensee's request to change the manner in which the amount of programming drawn from program category 7(d) is measured is consistent with the Commission's determination set out in Broadcasting Public Notice 2008-100.

46. However, the Commission considers that the inclusion of "lifestyle programming" in programming drawn from program category 7(d) would permit too significant a shift in MuchMusic's nature of service, and that such a shift would be more appropriately dealt with in the context of the service's next licence renewal.

47. Accordingly, the Commission **approves** the licensee's request to amend the condition of licence relating to programming drawn from program category 7(d) in order to change the manner in which the amount of such programming is measured. This **condition of licence** shall now read as follows:

The licensee shall devote not more than 10% of the broadcast month to music-related programming drawn from program category 7(d) Theatrical feature films aired on TV.

Addition of program categories to the list of categories from which MuchMusic may draw programming

48. Currently, as set out by condition of licence, MuchMusic is permitted to draw programming from the following program categories: 2(a), 2(b), 7(a), 7(c), 7(d), 7(e), 8(a), 8(b), 8(c), 11, 12, 13 and 14. CTV proposed to add the following program categories to the list of categories from which the service may draw programming: 1, 3, 4, 5(a), 5(b), 6(a), 6(b), 7(b), 7(f), 7(g), 9, 10 and 15. The licensee stated that this request is in accordance with the programming flexibility announced by the Commission in Broadcasting Public Notice 2008-100.

Interventions

49. The CFTPA did not oppose the addition of the requested program categories, but noted that CTV did not make any commitments to the production and exhibition of Canadian programming from these categories.

Licensee's reply

50. In reply, CTV stated that it has not proposed any reduction to its current obligation relating to Canadian programming expenditures, which amounts to 33% of the previous year's gross revenues.

Commission's analysis and determinations

51. As set out in Broadcasting Public Notice 2008-100, the Commission is of the view that, in most instances, the nature of service descriptions of Category A services are sufficiently specific to ensure that these services remain true to the genre for which they were licensed. Accordingly, the Commission stated that it would permit all Category A services to draw programming from all program categories. However, to ensure that this change does not permit services to morph into other established programming genres, and thus become directly competitive with other Category A services, the Commission established a standard limitation of 10% of the broadcast month for certain program categories, specifically, 2(b), 6(a) and 7, and 8(b) and (c) combined. The Commission is therefore of the view that, consistent with Broadcasting Public Notice 2008-100, and in order to ensure that MuchMusic does not become directly competitive with any existing Category A service, a limitation of 10% of the broadcast month should be imposed for programming drawn from program category 6(a), and from program categories 7(b), (f) and (g) combined.

52. In light of the above, the Commission **approves** the applicant's request to add program categories 1, 3, 4, 5(a), 5(b), 6(a), 6(b), 7(b), 7(f), 7(g), 9, 10 and 15 to the list of categories from which MuchMusic may draw programming, with the limitation of 10% of the broadcast month for programming drawn from the program categories specified above. Accordingly, the **conditions of licence** relating to the program categories from which the service may draw programming shall now read as follows:

The programming shall be drawn exclusively from the following program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:

- 1 News
- 2 (a) Analysis and interpretation
(b) Long-form documentary
- 3 Reporting and actualities
- 4 Religion
- 5 (a) Formal education and pre-school
(b) Informal education/Recreation and leisure
- 6 (a) Professional sports

- (b) Amateur sports
- 7 Drama and comedy
 - (a) Ongoing drama series
 - (b) Ongoing comedy series (sitcoms)
 - (c) Specials, mini-series or made-for-TV feature films
 - (d) Theatrical feature films aired on TV
 - (e) Animated television programs and films
 - (f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy
 - (g) Other drama
- 8 (a) Music and dance other than music video programs or clips
 - (b) Music video clips
 - (c) Music video programs
- 9 Variety
- 10 Game shows
- 11 General entertainment and human interest
- 12 Interstitials
- 13 Public service announcements
- 14 Infomercials, promotional and corporate videos
- 15 Filler programming

The licensee shall devote not more than 10% of the programming broadcast over the broadcast month to programming drawn from each of program categories 2(b) and 6(a), 7(b), (f) and (g) combined, and 8(b) and (c) combined.

53. The Commission reminds the licensee that all programming aired must be consistent with MuchMusic's nature of service.

Definition of "broadcast day"

54. As set out in Broadcasting Decision 2006-380, the "broadcast day" for MuchMusic is currently defined as the 24-hour period beginning each day at 6:00 a.m., or any other period approved by the Commission. CTV proposed to adopt the 18-hour definition of "broadcast day" for the service, that is, 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, as selected by the licensee. In support of this request, the licensee submitted that an 18-hour broadcast day, as opposed to a 24-hour broadcast day, would "ensure maximum flexibility within its licence."

55. The Commission notes that specialty services are generally permitted to choose between a 24-hour and an 18-hour broadcast day, and considers that there would be no negative impact of approving the requested amendment. Accordingly, the Commission **approves** the licensee's request to adopt the 18-hour definition of "broadcast day" for MuchMusic. The Commission therefore replaces the definition of "broadcast day" set out in Broadcasting Decision 2006-380 with the following definition:

For the purposes of the conditions of this licence, “broadcast day” means 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, as selected by the license, or any other period approved by the Commission.

56. The Commission notes that this amended definition of “broadcast day” for MuchMusic shall be in effect as of 1 September 2010.

Secretary General

Related documents

- *The Comedy Network – Licence amendments*, Broadcasting Decision CRTC 2010-655, 2 September 2010
- *Outdoor Life Network – Licence amendments*, Broadcasting Decision CRTC 2010-466, 9 July 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *Outdoor Life Network – Licence amendments*, Broadcasting Decision CRTC 2009-569, 10 September 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Transfer of effective control of CHUM Limited to CTVglobemedia Inc.*, Broadcasting Decision CRTC 2007-165, 8 June 2007
- *MuchMusic – Licence renewal*, Broadcasting Decision CRTC 2006-380, 18 August 2006

* *This decision is to be appended to the licence.*