



## Broadcasting Decision CRTC 2012-88

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Ottawa, 10 February 2012

### **Crossroads Television System**

Hamilton, Ontario, Calgary and Edmonton Alberta

*Application 2011-1179-9*

### **CITS-DT Hamilton, CKCS-DT Calgary and CKES-DT Edmonton – Licence amendments**

*The Commission **denies** an application by Crossroads Television System to amend the broadcasting licences for the religious television stations CITS-DT Hamilton, CKCS-DT Calgary and CKES-DT Edmonton by changing their conditions of licence 3 related to balance programming and by adding a condition of licence requiring the establishment of Compliance and Advisory Committees for Alberta and Hamilton.*

*A dissenting opinion by Commissioner Peter Menzies is attached.*

#### **Introduction**

1. The Commission received an application by Crossroads Television System (CTS) to amend the broadcasting licences for the religious television programming undertakings CITS-DT Hamilton, CKCS-DT Calgary and CKES-DT Edmonton with respect to conditions of licence related to balance programming.<sup>1</sup> The Commission did not receive any interventions in connection with this application.
2. Balance programming is currently addressed in condition of licence 3 for each station. Condition of licence 3 for CITS-DT now reads as follows:

The licensee shall broadcast a minimum weekly level of 20 hours of balance programming, 18 hours of which must be original balance programming. Additionally of the 20 hours of balance programming, 12 hours must be broadcast between 6:00 p.m. and 11:00 p.m.
3. Condition of licence 3 for CKCS-DT and CKES-DT now reads as follows:

The licensee shall broadcast a minimum of 18 hours of balance programming in every broadcast week, of which 11 hours shall be original balance programming and 8 hours shall be broadcast between 6 p.m. and 11 p.m.

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<sup>1</sup> When the conditions of licence were imposed, the undertakings were known as CITS-TV, CKCS-TV and CKES-TV. The suffix changed from “TV” to “DT” following the transition of television stations to digital transmission in mandatory markets in August 2011.

4. CTS proposed to amend the above conditions of licence so that compliance with all requirements for balance programming would be measured over the full broadcast schedule. Under this proposal, requirements for balance programming between 6 p.m. and 11 p.m. would be removed.
5. As well, CTS proposed that the Commission impose a condition of licence under which the licensee would be required to operate two Compliance and Advisory Committees – one for CITS-DT in Hamilton and one for CKCS-DT and CKES-DT in Alberta (the Committees). Each committee would be comprised of at least five members drawn from three different faiths. In Hamilton, the faiths represented would include at least three of the following: Christianity, Islam, Judaism and Sikhism. In Alberta, the Committee would include representatives from Christianity, Islam and Buddhism.
6. The Committees would oversee a new approach to balance programming under which balance elements would be integrated into many CTS programs in order to provide opportunities for cross-cultural and interreligious exchanges. CTS indicated that much of this type of balance programming would be provided in prime time. This would replace the current approach where most balance programming is provided during programs dedicated to particular faiths.
7. The Committees would have input into the development of all CTS programs that incorporate balance elements. They would suggest new content, review existing balance commitments and provide input into the development of new balanced programming content. The Committees would also advise on and adjudicate interfaith disputes that arise from balance programming.
8. The Committees would prepare an annual report that itemizes and quantifies how the CTS stations have maintained balance during each broadcast year.

### **Commission's analysis and decisions**

9. In its Religious Broadcasting Policy, set out in Public Notice 1993-78, the Commission established the following four criteria for achieving balance in programming:
  - i) Broadcasters must deal with matters of public concern in their programming and do so in a balanced fashion. Not all programming need be balanced, only that relating to matters of public concern. The Commission considers religious matters to be of public concern.
  - ii) Broadcasters should, in the first instance, determine for themselves when an issue is important enough to merit full discussion presenting a wide range of opinions, in what manner the differing views should be presented, and who should present them.
  - iii) In general, a broadcaster need not provide balance in each program or series of programs, but rather in the overall programming offered by the undertaking, over a reasonable period of time.
  - iv) To attain balance, a broadcaster need not necessarily give equal time to each point of view. Rather, the Commission expects that a variety of points of view will be made available in the programming offered by the undertaking to a reasonably consistent viewer or listener, over a reasonable period of time.

10. In Broadcasting Decision 1998-123, the Commission approved CTS's application for a new religious television station in Hamilton while denying a competing application by Trinity Television Inc. In its application, CTS proposed among other things to broadcast balance programming on a weekly basis and during the evening broadcast period. The Commission stated that it considered that CTS's application more fully satisfied the Commission's balance guidelines. In Broadcasting Decision 2007-176, the Commission approved CTS's applications for new religious television stations in Calgary and Edmonton while denying competing applications by the Miracle Channel Association. In approving the CTS applications, the Commission expressed satisfaction with CTS's plans to achieve balance in its programs. The conditions of licence set out in paragraphs 2 and 3 were based on CTS's commitments.
11. The Commission further notes that, in addition to the three CTS stations, the religious television stations CJIL Lethbridge, CHNU Fraser Valley and CIIT Winnipeg have conditions of licence requiring balance programming both on a weekly basis and during the evening. The Commission is of the view that the provision of balance programming during peak hours is an important part of its approach to religious broadcasting by conventional television stations in that it serves to ensure that such programming is available at times when the potential audience is the greatest.
12. Accordingly, the Commission considers that approval of CTS's application would result in a significant change to the Commission's approach to achieving balance in programming and that it would be more appropriate to consider such a change at the time of licence renewal, when the Commission can explore all aspects of these stations' programming.
13. The Commission, therefore, intends to discuss issues related to achieving balance in programming with all conventional religious television stations as part of their licence renewal process beginning later this year. The Commission will also examine CTS's compliance with its conditions of licence related to the provision of religious programming at that time.

## **Conclusion**

14. In light of the above, the Commission **denies** the application by Crossroads Television System to amend the broadcasting licences for the religious television programming undertakings CITS-DT Hamilton, CKCS-DT Calgary and CKES-DT Edmonton to eliminate conditions of licence for the broadcast of balance programming in the evening and to add requirements to operate Compliance and Advisory Committees.

Secretary General

## **Related documents**

- *Religious television stations in Calgary and Edmonton*, Broadcasting Decision CRTC 2007-167, 8 June 2007
- *New over-the-air television station devoted to religious programming – Approved, Competing application – Denied*, Decision CRTC 98-123, 9 April 1998

- *The Commission seeks clarification of commitments by the above-noted applicants regarding the provision of balance and adherence to guidelines on ethics in their proposed over-the-air television programming undertakings to broadcast religious programming, Public Notice CRTC 1994-110, 30 August 1994*
- *Religious Broadcasting Policy, Public Notice CRTC 1993-78, 3 June 1998*

## **Dissenting opinion by Commissioner Peter Menzies**

In this decision, the Commission has declined to grant a request from CTS for flexibility on its condition of licence regarding the broadcast of religious balance programming during prime time.

This dissent is based on three points: the Commission's history of particular concern regarding religious programming, the reasonableness of CTS's request and the inconsistency in the Commission's application of flexibility.

Religious broadcasting has been an area of specific concern/interest throughout Canada's broadcasting regulation history. This attention can be traced back more than 80 years to when at least one broadcaster was using its spectrum in a manner that inflamed sectarian and political tensions. Upon the [recommendation of a Royal Commission](#), exclusively religious broadcasting was to all intents and purposes banned in Canada, although church services and religious programs have been components of the broader system.

That prohibition stayed in place until December 1987, when Vision TV was licensed as a speciality channel with a multi-faith mandate (Decision 87-900). Then, in 1993 in the Religious Broadcasting Policy (Public Notice 1993-78), the Commission conceded – in a contentious vote – to license religious broadcasters.

The dissenting opinion of several Commissioners stated:

We are disturbed by the extent of social, cultural, and racial intolerance which is often rooted in religious intolerance. One need only look to Bosnia, the Middle East, India, Northern Ireland, South Africa, and other world “trouble spots” to observe this phenomenon in its most violent form. Such cultural and racial intolerance is less dramatic and violent, but no less real, in Canada.

This opinion is reasonably representative of the fundamental secularist view that religion is more likely to be a force for harm than for good and therefore should exist apart from and not as a part of secular society. This Commissioner shares the concern expressed regarding intolerance and does not contest the fact that religion has been and can be a useful tool for extremists.

The subject for debate would be whether unrest fomented through abuse of religion by extremists should be categorized differently from unrest stemming from abuse by extremists of other features of society, such as trade, sovereignty, economics, politics, language, property, money and culture, all of which have been and will continue to be “root causes” of intolerance. Indeed, it seems there are few boundaries to the extent to which people of ill will are anxious to find useful vehicles in the pursuit of their goals. Even hockey, as Canada witnessed most recently in June 2011 in Vancouver, can be the excuse for civil misconduct.

With great respect to my predecessors, they may have been rather narrow in their interpretation of the root causes of intolerance. Further, they appear to have chosen to view religion through an entirely negative lens and completely overlooked the positive role that faith organizations play in society.

As the *Globe and Mail* reported on 1 December 2011, [religious affiliation](#) has a profound empirical connection to virtuous social behaviour:

Ida Berger, a professor of marketing and consumer behaviour at Toronto's Ryerson University, suggests that how a person gives comes down to three factors: their attitudes, the social norms and expectations in their community, and how easy it is to give – three factors that religious groups cover off handily. [...] Dr. Berger has also tracked how religion affects giving to secular causes – the pattern she found has been mirrored in European research. Using data from the National Survey of Giving in 2000, she found that Jewish Canadians did 72 per cent of their giving outside the synagogue; Roman Catholics gave 59 per cent outside the church; and Protestants, the biggest givers overall, gave 25 per cent. But even the latter group, according to her research, still doubled the secular giving of Canadians with no religious affiliation.

*Maclean's* also reported on the profound difference in philanthropic behaviour in Canada between [people of faith](#) and those uninspired to make it a part of their life:

Are members of organized religions inherently more generous? The short answer seems to be yes, but the devil is in the details. "Religious people do tend to give more than non-religious people," says Michael Wilkinson, a sociologist specializing in religion at Trinity Western University in the Fraser Valley. This generosity is at the foundation of many faiths, he says. "It's part of their value system. They're motivated to give; they believe they're doing something that's important for the community. They believe they are involved in something bigger than themselves."

Nevertheless, the Commission's religious broadcasting history and policy remains concerned with the extent to which religion can be affiliated with negative (and highly publicized) incidents. Oblivious to the influence religion can have as a catalyst for commonly held secular social virtues, the Religious Broadcasting Policy contains the onerous insistence that broadcasters provide balance or, to be clear, programming from those of other faiths or no faith at all. A Christian broadcaster must therefore devote significant portions of its broadcast week to programming promoting other worldviews (atheism, Judaism, Islam, Buddhism, Sikhism, Hinduism, etc.).

In the CTS case, the conditions are:

- For CITS-DT (Broadcasting Decision [2004-379](#)):

The licensee shall broadcast a minimum weekly level of 20 hours of balance programming, 18 hours of which must be original balance programming. Additionally, of the 20 hours of balance programming, **12 hours must be broadcast between 6:00 p.m. and 11:00 p.m.**

- For CKCS-DT and CKES-DT (Broadcasting Decision [2007-167](#)):

The licensee shall broadcast a minimum of 18 hours of balance programming in every broadcast week, of which 11 hours shall be original balance programming and **8 hours shall be broadcast between 6 p.m. and 11 p.m.**

For the purpose of this condition of licence, “balance programming” is defined as programming devoted to providing differing views on issues and events presented during the station’s primary programming and includes the presentation of different religions.

This is an extraordinary handicap as, while there is certainly some connectivity within the Judeo-Christian tradition, there is little in common culturally or theologically between the other religious views of the world other than some monotheistic symmetry and the fact that they share the belief that there is more to the human experience than that which can be seen. In the case of atheism, that worldview is completely opposed to the foundations of faith.

As CTS noted in its application, which was supported by its multi-faith advisors and opposed by no one in the public sphere, “balanced programming as it has traditionally been envisaged and made no longer reflects the current realities of multiple faith expressions on the ground in Canada.” CTS also noted that “single-faith, single-point of view programs in our schedule have produced miniscule audiences” and that the current approach to balance programming “risks becoming an anachronism.” The insistence upon balance in this regard is operationally equivalent to expressing concern that rock-and-roll or hip-hop stations may fuel inappropriate passions that must be cooled by insisting that a portion of the broadcast day be devoted to classical music. Certainly anyone who has visited one of the nation’s public houses broadcasting Mixed Martial Arts is vividly aware that such programming, even when not combined with alcohol, has a noticeable impact on the testosterone levels of young men. And yet the Commission – rightly – does not insist that sports broadcasters balance this impact by broadcasting ballet or interpretive dance as an antidote to high testosterone levels.

The Commission’s concern is restricted to religious broadcasters and in a way that is overly prohibitive. And yet CTS was not attempting to escape this obligation, only to integrate the demand for balance.

In exchange for relief on its prime time balance requirements, CTS proposed that the Commission impose a condition of licence that would require the licensee to establish two Compliance and Advisory Committees that would:

- comprise at least five members from three different faiths, namely:
  - in Hamilton: Christianity, Islam, Judaism and Sikhism; and
  - in Alberta: Christianity, Islam and Buddhism;
- oversee a new approach to balance programming under which balance elements would be integrated into many CTS programs to provide cross-cultural and interreligious exchanges;
- have input into the development of all CTS balance programs and content;
- review existing balance commitments;

- advise on and adjudicate interfaith disputes that arise from balance programming; and
- prepare an annual report on how the CTS stations have maintained balance.

There is little evidence in that offer of a desire to avoid the imperative of balance, but rather to integrate balance programming as opposed to segregating it. That effort should have been more than enough to address concerns that accepting the CTS request would have a domino effect on the balance requirement of Canada's other religious broadcasters. (There are three others: CJIL-DT Lethbridge, CHNU-DT Fraser Valley and CIIT-DT Winnipeg.)

Further, and to conclude this point, even if one accepts the merits of the concerns expressed by some Commissioners in 1993, the system has developed over the years in a manner such that there is no shortage of opportunities for broadcasters – within the regulatory framework or online – of all faith affiliations. Category B licences are subject to an open-entry approach and a plethora of channels exist that are ready to serve the cultural and spiritual interests of their viewers. If anything, the current policies regarding over-the-air religious broadcasting act as a barrier to non-Christian over-the-air ventures wary of the burden imposed by the balance requirements.

None of this means that religious broadcasters should not conduct themselves in a fashion consistent with the *Broadcasting Act* or, for that matter, the Canadian Broadcasting Standards Council. As holders of a public licence they should be as conscious as any other broadcaster that they are not operating in a private sphere but within the public domain, where their conduct will be subject to public scrutiny and complaint. It is difficult, given the array of civil, criminal and administrative remedies available to today's public should offense occur (and that did not exist when the Commission first took an interest in religion), to imagine that licensees would be unaware of this.

Nor does it mean that operators should be free to use a religious licence as a convenient vehicle to become another commercial broadcaster. If there is nothing in the nature of a service's prime time programming that identifies it as unique, there is little point in maintaining its unique licensing status. It is sensible therefore to insist that a religious broadcaster include religious programming during prime time as CTS does (with the exception of the 7 p.m. to 9 p.m. slot Monday through Friday, programming appears to be of a blatantly religious nature).

The final point and area of greatest concern is the consistency with which the Commission applies its imperative of flexibility.

In this decision, the Commission has refused CTS's request for flexibility in how it achieves its prime time obligations. Meanwhile, local over-the-air commercial broadcasters are in general now required to offer a mere 7 hours per week of local content in non-metropolitan markets and 14 hours per week in metropolitan (more than 1 million in population) markets. This is a mere shadow of the levels of local content required several years ago.

A more recent example is the Commission's decision just prior to its denial of the CTS request to approve Bell/CTV's application to expand the parameters of the licence for CKVR-DT Barrie into areas of southern Ontario (including CTS's home base in Hamilton) in



order that Bell/CTV may enhance its profitability. Suffice it to say that there is an inexplicable absence of consistency between the Commission's deference to Bell/CTV (whose application prompted a number of interventions in opposition) and its denial of the CTS application, which, as noted, was unopposed.

When flexibility is exercised, it is in the best interests of the Commission and all the stakeholders within the regulatory system that it be applied – and be seen to be applied – fairly irrespective of the size and influence of the broadcaster's lobby. Saying yes to the nation's largest, most powerful broadcasting consortium while almost simultaneously saying no to one of the nation's smallest, niche operators does not distinguish the Commission.

A review of the Commission's policy on religious broadcasting is not necessary in order to grant CTS's request as it was not seeking to avoid balance obligations, merely to modernize them. Ensuring it remains faithful to its nature of service is important. Insisting that it be unable to innovate to meet its obligations and serve its audience is entirely unnecessary.