



Broadcasting Decision CRTC 2013-384

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Route reference: 2013-19

Additional references: 2013-19-1, 2013-19-3 and 2013-19-4

Ottawa, 8 August 2013

TV5 Québec Canada Across Canada

Application 2012-1094-7, received 30 August 2012
Public hearing in the National Capital Region
23 April 2013

TV5 and UNIS – Licence renewal and amendments

*The Commission **renews** the broadcasting licence for the national French-language specialty Category A service TV5 from 1 September 2013 to 31 August 2018. The Commission also **approves** the addition of a second feed for the service to be known as UNIS. The terms and **conditions of licence** are set out in the appendix to this decision. The new TV5/UNIS service will provide high-quality French-language programming for all Canadians, including Canadians located in official language minority communities who currently are not sufficiently reflected in the Canadian broadcasting system.*

The application

1. TV5 Québec Canada (TV5) filed an application to renew the broadcasting licence for the national French-language specialty Category A¹ service TV5, which expires 31 August 2013.²
2. As part of its application, TV5 proposed to modify its service to broadcast two feeds (collectively Nouveau TV5) under the same licence:
 - TV5, which would offer programming focused primarily on reflecting the international Francophonie; and
 - UNIS, which would offer programming focused primarily on reflecting the diversity of the Canadian Francophonie, including official language minority communities (OLMCs).

¹ As set out in Broadcasting Public Notice 2008-100, effective 31 August 2011, Category 1 digital and analog pay and specialty services were renamed Category A services and Category 2 digital services were renamed Category B services.

² The licence for this undertaking was administratively renewed until 31 August 2013 as a result of Broadcasting Decisions 2009-145-1, 2010-562 and 2011-312.

3. The licensee also requested mandatory distribution of both services on the digital basic service of Canadian cable and satellite providers, pursuant to an order issued under section 9(1)(h) of the *Broadcasting Act* (the Act). This request was granted in Broadcasting Regulatory Policy 2013-372, also published today.
4. TV5 stated that Nouveau TV5 would play an exceptional role in the broadcasting system as a window on the French-speaking communities of the world and the diversity of French Canada and that it would contribute in an exceptional manner to reinforcing Canada's linguistic duality and improving service to OLMCs. TV5 also cited the need for a French-language programming service devoted to Francophones living in OLMCs identified by the Commission in its *Report to the Governor in Council on English- and French-language broadcasting services in English and French linguistic minority communities in Canada*, 30 March 2009 (the Report to the Governor in Council).
5. Accordingly, as part of its licence renewal, TV5 submitted a set of regulatory requirements and amendments to its conditions of licence that would allow it to reflect the situation, the accomplishments and the aspirations of OLMCs. These requirements and amendments are discussed below.
6. The Commission received over 5,000 interventions supporting, opposing or commenting on the application. A large majority of these interventions were in support, including those from individual Canadians across the country and organizations representing OLMCs. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Background and context on the TV5 programming service

7. TV5's main mission is to provide a window on Canada's Francophonie for the world, while broadcasting high-quality international programming from all over the international Francophonie to Canadians. TV5's Canadian programming is available worldwide on the TV5 Monde programming service, which can be viewed by more than 36 million people in almost 50 countries in Europe and North Africa.
8. TV5 is part of an international partnership with the government of France, la Fédération Wallonie-Bruxelle, the government of Switzerland, the government of Canada and the province of Quebec.
9. In furtherance of section 3(1)(d)(iii) of the Act, TV5 provides Canadians with programming that serves the needs and interests of the linguistic duality and multicultural and multiracial nature of Canadian society by showcasing international French-language programming that is not widely available in Canada to Canadians and Canadian French-language programming to the world.

The need for a French-language programming service devoted to Francophones living in OLMCs

10. In its Report to the Governor in Council, the Commission identified a need for a French-language programming service devoted to OLMCs across Canada. The Commission concluded that such a service would enhance the reflection of Francophone communities and the visibility of French-language Canadian productions from OLMCs, as well as contribute to the development of talent from these communities by allowing French-language Canadian producers from OLMCs to find their place in the broadcasting system.
11. The Commission notes that TV5's request to offer a new feed devoted to OLMCs is driven by those objectives in that UNIS would complement TV5's current programming service oriented towards Canada's and the international Francophonie by providing the OLMCs with a window that would allow these communities to showcase their talents and culture while being able to see their lives, aspirations and achievements reflected to themselves on television.

Commission's analysis and decisions

Two French-language specialty feeds operating under one licence

12. As discussed in Broadcasting Regulatory Policy 2013-372, the Commission considers that the TV5 proposal for two French-language specialty feeds operating under one licence will contribute to the achievement of the objectives set out in sections 3(1)(d)(iii) and 3(1)(k) of the Act relating to the reflection of the linguistic duality of Canadian society and offering a range of broadcasting services in English and in French as resources become available.
13. The Commission also considers that both feeds taken together will contribute to enhancing the vitality of French-language minority communities in Canada. The Commission notes that the proposal is also consistent with the spirit of section 41 of the *Official Languages Act*. The Commission further notes that the proposal received considerable support from interveners and that it reflects the Commission's own recommendations in its Report to the Governor in Council concerning services to OLMCs in anglophone markets.
14. Finally, in light of sections 5(2)(a) and 5(2)(b) of the Act, which state that the Canadian broadcasting system should be regulated and supervised in a flexible manner that is readily adaptable to the different characteristics of English- and French-language broadcasting and that takes into account regional needs and concerns, the Commission is of the view that TV5's request to operate two specialty feeds under one licence is acceptable.

Exhibition of Canadian content and Canadian programming expenditures

15. As stated above, the applicant proposed to offer two distinct feeds with different natures of service and different Canadian content requirement. The Commission

notes that TV5 has had low Canadian content requirements since its creation in the 1980s. The Canadian content level of TV5 as set out in its current licence is 15%. This level of Canadian content is intended to allow the TV5 service to offer programming from French-speaking countries around the world that would otherwise not be available in Canada and provides a valuable window on international perspectives to francophone and francophile Canadians within the Canadian broadcasting system. The Commission considers that this level of Canadian content for TV5 is reasonable considering its nature of service.

16. With respect to UNIS, the applicant proposed a Canadian content level of 75%, given that its nature of service requires it to reflect the Canadian Francophonie. This level of Canadian content is much higher than that of most other services and is consistent with the Commission's policy to require substantial levels of Canadian content for Canadian Category A services. Accordingly, the Commission has imposed a **condition of licence** to this effect in the appendix to this decision.
17. In addition, as mentioned in Broadcasting Regulatory Policy 2013-372, given that TV5 and UNIS will be distributed on the digital basic service of broadcasting distribution undertakings pursuant to a mandatory distribution order, the Commission is of the view that a minimum combined level of 50% Canadian content for both feeds is appropriate. This level of Canadian content is being imposed as a requirement for mandatory distribution in Broadcasting Order 2013-374.
18. With respect to Canadian programming expenditures (CPE), TV5 proposed in its application a condition of licence that would require it to expend at least 55% of the gross revenues derived from the operation of the services during the previous year on the acquisition of or investment in Canadian programs. Given that the average CPE for Category A services is approximately 37% of the previous year's gross revenues, the Commission considers that the CPE level proposed by TV5 is appropriate. As such, the Commission has imposed a **condition of licence** requiring the licensee to devote at least 55% of the gross revenues derived from the operation of the service during the previous year on the acquisition of or investment in Canadian programs.
19. Further, TV5 proposed to devote:
 - at least 75% of its CPE to original first-run Canadian programming for TV5 and UNIS combined, of which at least 40% in years 1 and 2 of operation, 50% in years 3 and 4 of operation and 60% in year 5 of operation would be devoted to the acquisition of original French-language programs that:
 - (a) reflect the situation, achievements or aspirations of French-Canadian minority communities; or
 - (b) are produced or co-produced by independent producers located outside the Census Metropolitan Area of Montréal, as defined by Statistics Canada.

- at least 60% of the expenditures devoted to programming identified in subparagraphs (a) and (b) above would be devoted to programs produced or co-produced by independent producers based outside of Quebec.
20. As stated in Broadcasting Regulatory Policy 2013-372, the Commission considers that these proposed levels of spending on original first-run Canadian programming for both TV5 and UNIS will contribute in an exceptional manner to the creation of new Canadian programs to the benefit of all Canadians and the Canadian broadcasting system. This commitment will also give Canadian francophone producers, creators, technicians and artists the opportunity to be heard and to share their ideas and concerns with Francophiles and francophone Canadians, thus contributing to many policy objectives of the Act.
21. Consequently, in the appendix to this decision and consistent with the licensee's commitments, the Commission has imposed **conditions of licence** to reflect the aforementioned proposals.

Regional offices and consultative committee

22. In its application, TV5 proposed to open three regional offices in OLMCs and to create a consultative committee with OLMC representatives to validate the programming of the UNIS feed.
23. As explained in Broadcasting Regulatory Policy 2013-372, the mandatory distribution order for both services is conditional on the launch of the UNIS feed, the opening of three regional offices in OLMCs and the creation of a consultative committee for UNIS programming involving OLMC representatives. As set out in the appendix to this decision, the Commission expects the licensee to meet these commitments.

Program logs

24. Section 7(2) of the *Specialty Services Regulations, 1990* states that except as otherwise provided under a condition of its licence, a licensee shall furnish to the Commission, within 30 days after the end of each month, the program log or machine-readable record of its programming for the month.
25. The Commission reminds TV5 that according to these regulations, the logs shall at all times be kept in an acceptable form, which means that they must be accurate, exact and precise.
26. The Commission will provide an annual assessment of the licensee's compliance with its regulatory requirements. This evaluation will be sent to the licensee before the end of the broadcast year following the year being evaluated. This will allow the licensee to verify that it is in compliance with its requirements for the year being evaluated.

27. It is important that TV5 ensure that its program logs are accurate throughout the year because the Commission will not re-evaluate the licensee's compliance for the year in question.

Conclusion

28. In Broadcasting Regulatory Policy 2013-372, also issued today, the Commission approved the applicant's request for mandatory distribution. In that policy, the Commission decided that a five-year term for the distribution order was appropriate, given the pace of change in the Canadian broadcasting environment. The Commission considers that the licence term should coincide with that of the associated order.

29. Accordingly, the Commission **renews** the broadcasting licence for the national French-language specialty Category A service TV5 from 1 September 2013 to 31 August 2018. It further approves the addition of a second feed to be known as UNIS. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

Related documents

- *Distribution of the programming service of TV5 Québec Canada known as TV5/UNIS by licensed broadcasting distribution undertakings*, Broadcasting Order CRTC 2013-374, 8 August 2013
- *Applications for mandatory distribution on cable and satellite under section 9(1)(h) of the Broadcasting Act*, Broadcasting Regulatory Policy CRTC 2013-372, 8 August 2013
- *TV5 Québec Canada – Administrative renewal*, Broadcasting Decision CRTC 2011-312, 12 May 2011
- *Administrative renewals*, Broadcasting Decision CRTC 2010-562, 9 August 2010
- *Administrative renewals*, Broadcasting Decision CRTC 2009-145, 17 March 2009, as corrected by Broadcasting Decision CRTC 2009-145-1, 9 April 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008

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

Appendix to Broadcasting Decision CRTC 2013-384

Terms, conditions of licence, expectations and encouragements for the national French-language specialty Category A service TV5/UNIS

Terms

The licence will take effect 1 September 2013 and will expire 31 August 2018.

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for specialty Category A services set out in *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011, as amended from time to time.
2. As regards the nature of service:
 - (a) The licensee shall provide a national French-language specialty Category A service targeted toward the Canadian and international Francophonie. The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time. The licensee shall provide two separate feeds:
 - i. the TV5 International feed, with programming focused mainly on the reflection of the diversity of the international Francophonie; and
 - ii. the TV5 UNIS feed, with programming focused mainly on the reflection of the diversity of the Canadian Francophonie, specifically official language minority communities and Quebec regions outside Montréal.
 - (b) In each broadcast year, the licensee shall devote to the distribution of Canadian programs:
 - i. at least 15% of the programming of TV5 International during the broadcast day and the evening broadcast period; and
 - ii. at least 75% of the programming of TV5 UNIS during the broadcast day and the evening broadcast period.
 - (c) In each broadcast year, the licensee shall devote to the distribution of original French-language programming at least 90% of the Canadian programming for each feed.
3. As regards Canadian programming expenditures:

- (a) In each broadcast year, the licensee shall expend at least 55% of the gross revenues derived from the operation of the service during the previous year on the acquisition of or investment in Canadian programs.
- (b) In any broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming that is up to 5% less than the minimum required expenditure for that year calculated in accordance with this condition; in such case, the licensee shall expend in the following year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.
- (c) In any broadcast year of the licence term, including the final year, the licensee may expend an amount on Canadian programming that is greater than the minimum required expenditure for that year calculated in accordance with this condition; in such case, the licensee may deduct:
- i. from the minimum required expenditure for the following year of the licence term, an amount not exceeding the amount of the previous year's over-expenditure; and
 - ii. from the minimum required expenditure for any subsequent year of the licence term, an amount not exceeding the difference between the over-expenditure and any amount deducted under paragraph (i) above.
- (d) Notwithstanding paragraphs (b) and (c) above, during the licence term, the licensee shall expend on Canadian programs, at a minimum, the total of the minimum required expenditures calculated in accordance with this condition of licence.
4. The licensee shall devote at least 75% of its Canadian programming expenditures to original, first-run Canadian programming for both feeds of its service combined, of which at least 40% in years 1 and 2 of operation, 50% in years 3 and 4 of operation and 60% in year 5 of operation shall be devoted to the acquisition of original French-language programs that:
- (a) reflect the situation, achievements or aspirations of French-Canadian minority communities; or
 - (b) are produced or co-produced by independent producers located outside the Census Metropolitan Area of Montréal, as defined by Statistics Canada.
5. At least 60% of the expenditures devoted to programming identified in 4(a) and (b) above shall be devoted to programs produced or co-produced by independent producers based outside of Quebec.
6. The service renewed hereby is designated as a Category A service.

Definitions

For the purposes of these conditions:

The terms “broadcast day,” “broadcast year,” “clock hour” and “evening broadcast period” shall have the same meanings as set out in the *Television Broadcasting Regulations, 1987*.

An “original, first-run program” is defined as the original exhibition of a program that has not been distributed by another broadcasting undertaking licensed by the Commission.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011, as amended from time to time.

The Commission expects that the applicant will open three regional offices in French OLMCs within the first year of its new licence term.

The Commission expects that a consultative programming committee that includes representatives from OLMCs be created no later than 90 days after the launch of the UNIS feed.

Encouragements

The standard encouragements applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011, as amended from time to time.