



## Broadcasting Decision CRTC 2013-736

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Ottawa, 19 December 2013

**0859291 B.C. Ltd.**  
Victoria, British Columbia

*Application 2013-1060-7*

### **CHEK-DT Victoria – Conditions of licence for closed captioning and described video**

*This decision deals with a request for relief from conditions of licence relating to closed captioning and described video for CHEK-DT Victoria.*

*The Commission **approves** an amendment to condition of licence 9 relating to the closed captioning of advertising, sponsorship messages and promos so that it comes into effect on 1 September 2014 rather than 1 September 2013. As a result, the condition of licence will be effective on the same date for CHEK-DT as it will be for the major English-language television broadcasters.*

*The Commission, however, **denies** an amendment to condition of licence 10 with respect to the provision of described video that is original to CHEK-DT. The Commission notes that original programming, for the purposes of the condition of licence on described video, is defined as programming that is “original to the service,” not programming that is original to the broadcasting system.*

*The Commission also expects the licensee to:*

- *participate in the Canadian Association of Broadcasters’ efforts to resolve issues related to the accuracy of closed captioning live, unscripted programming;*
- *report annually to the Commission in conjunction with its annual return on progress made until the issues are resolved; and*
- *explore other methods of providing closed captioning, such as the use of re-speakers, that may improve the accuracy rate for closed captioning live, unscripted programming.*

### **Introduction**

1. The Commission received an application by 0859291 B.C. Ltd. for relief from conditions of licence 8, 9 and 10 for CHEK-DT Victoria, British Columbia, relating

to closed captioning and described video. These conditions of licence are set out in Broadcasting Decision 2009-699.

2. The Commission received an intervention commenting on the application from the Canadian Association of Broadcasters (CAB). The public record for this application is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

### **Condition of licence 8 – Closed captioning quality standards**

3. Condition of licence 8 states:

The licensee shall adhere to the quality standards on closed captioning developed by the television industry's working groups, once approved by the Commission and as amended from time to time.

4. The licensee submitted that it uses internal resources and voice recognition software to provide closed captioning of its local news programming. While its accuracy rate is continually improving, it is not yet meeting the required 95% accuracy rate for closed captioning established in Broadcasting Regulatory Policy 2012-362.
5. The licensee requested the Commission's patience in this regard and committed to provide the Commission with regular updates on its progress.

### **Intervention**

6. The CAB agreed that consistently achieving a 95% accuracy rate for captioning unscripted live programming such as news and sports is proving to be very difficult for the industry. It stated that the broadcasting industry is presently working with closed caption service providers to respond to this challenge. The CAB submitted that any enforcement measures that the Commission applies to licensees should take into account industry efforts to improve accuracy rates for live programming.

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

7. The Commission recognizes the challenges associated with closed captioning live, unscripted programming. It considers that an industry-wide effort to address these challenges, as described by the CAB, is an appropriate way to address these challenges.
8. Accordingly, the Commission expects the licensee to:
  - participate in the CAB's efforts to resolve issues related to the accuracy of closed captioning live, unscripted programming;
  - report annually to the Commission in conjunction with its annual return on progress made until the issues are resolved; and

- explore other methods of providing closed captioning, such as the use of re-speakers,<sup>1</sup> that may improve the accuracy rate for closed captioning live, unscripted programming.

9. The Commission also expects the CAB to advise the Commission once issues related to the closed captioning of live, unscripted programming have been resolved and that solutions be implemented by 1 September 2014.

### **Condition of licence 9 – Closed captioning of advertising**

10. Condition of licence 9 states:

The licensee shall, beginning in year 4 of the licence term:

- ensure that all advertising, sponsorship messages and promos are closed captioned; and
- put in place a monitoring system to ensure that closed captioning is included in the broadcast signal and that captioning reaches the viewer in its original form.

11. For CHEK-DT, this condition of licence came into effect on 1 September 2013.

12. The licensee noted that, while the Commission also imposed this condition of licence on major English-language broadcasters, it does not come into effect for them until 1 September 2014. The licensee considered that imposing this condition of licence on CHEK-DT one year in advance of most other Canadian television broadcasters makes it very difficult, if not impossible, to fulfill.

### **Intervention**

13. The CAB indicated that it is working with industry organizations and the Canadian advertising community to establish a strategy for the implementation of closed captioning of all commercial advertising by September 2014. The CAB further stated that it had sent a letter to the Television Bureau of Canada (TBC) asking for assistance in encouraging advertisers to caption their commercials by making captioning a requirement for clearance of commercials by the TBC's Telecaster Services.<sup>2</sup>

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<sup>1</sup> A re-speaker repeats the words heard during a broadcast into a microphone connected to the computer operating voice recognition software. This assists the software in producing accurate captioning.

<sup>2</sup> Telecaster Services pre-clears English- and French-language commercials, infomercials and public service announcements for broadcast.

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

14. The Commission notes that the condition of licence requiring the captioning of advertising, sponsorship messages and promos is a standard condition of licence for television broadcasters. However, CHEK-DT's broadcasting licence was renewed in 2009, which led it to be subject to the condition one year prior to the stations owned by large English-language broadcasters.
15. The Commission also notes that the TBC will begin screening advertising material (including sponsorship and promotional messages) for closed captioning as of 1 September 2014. Therefore, up until that time, CHEK-DT would be solely responsible for ensuring that all of its advertising and promotional messages are captioned.
16. After considering the arguments advanced by the licensee and the information provided by the CAB, the Commission considers that it is reasonable to bring the effective date for condition of licence 9 in harmony the condition that applies to the stations owned by large English-language broadcasters. This will ensure that the broadcasting industry is prepared to implement the requirement and not impose an additional financial burden on CHEK-DT. Accordingly, the Commission amends condition of licence 9 to read as follows:

The licensee shall, beginning 1 September 2014:

- ensure that all advertising, sponsorship messages and promos are closed captioned; and
- put in place a monitoring system to ensure that closed captioning is included in the broadcast signal and that captioning reaches the viewer in its original form.

## **Condition of licence 10 – Level of described video**

17. Condition of licence 10 states:

The licensee shall broadcast, beginning in year 4 of its licence term, an average of 4 hours per week of described programming, of which 50% must be original to the service.

To fulfill this condition, the described programming may be drawn from the following categories: 2(b) Long-form documentary; 7 Drama and comedy; 9 Variety; and 11 General entertainment and human interest, as well as programming targeted to children.

18. The licensee stated it is able to provide an average of 4 hours per week of described programming, but is seeking relief from the requirement that 50% of described programming be original.

19. In support of its request, the licensee submitted that it is very difficult for a single station that is not a part of a vertically integrated entity to acquire described programming that is original to the service. It further stated that purchasing Canadian programming with described video is cost prohibitive at this time.
20. The CAB did not comment on this issue in its intervention.

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

21. The Commission notes that original programming, for the purposes of the condition of licence on described video, is defined as programming that is "original to the service," not programming that is original to the broadcasting system. This means that programming that has been produced and broadcast by other stations would qualify as "original" the first time that it is aired on CHEK-DT. Further, such programming can be Canadian or non-Canadian.
22. The Commission notes that there is a considerable amount of programming with described video available given that major English-language Canadian broadcasters have the same condition of licence as CHEK-DT, and the major U.S. networks now provide at least 50 hours of described programming per calendar quarter.
23. In light of all of the above, the Commission is of the view that the applicant has not provided sufficient evidence to justify its request for relief from CHEK-DT's condition of licence on described video and that there is an adequate amount of described programming available for CHEK-DT to fulfil its requirement. Accordingly, the Commission **denies** the licensee's request.

#### **Other matters**

24. As part of its application, the licensee advised the Commission that following an executive change earlier this year, it had conducted a review that showed that CHEK-DT had not been meeting its Canadian content requirements. The licensee indicated that it had taken corrective action and is now meeting those requirements. The Commission will explore issues relating to non-compliance at the time of CHEK-DT's next licence renewal.

Secretary General

#### **Related documents**

- *Quality standards for English-language closed captioning*, Broadcasting Regulatory Policy CRTC 2012-562, 5 July 2012
- *CHEK-TV Victoria and its transmitters – Acquisition of assets*, Broadcasting Decision CRTC 2009-699, 9 November 2009

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