



## Broadcasting Decision CRTC 2014-399

PDF version

Route reference: 2014-26

Additional reference: 2014-26-1

Ottawa, 31 July 2014

**Rogers Media Inc. on behalf of Rogers Broadcasting Limited,  
Sportsnet 360 Television Inc., Rogers Sportsnet Inc. and  
6878482 Canada Inc.**

Across Canada

*The application numbers are set out in Appendices 1 and 2 to this decision.*

*Public hearing in the National Capital Region*

*8 April 2014*

### **Rogers Media Inc. – Group-based licence renewals**

*The Commission determines that Rogers Media Inc. (Rogers) has met the requirements to be **considered a designated group** for the purposes of the group-based approach set out in A group-based approach to the licensing of private television services, *Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010.**

*With respect to the “City” television stations, the Commission **renews**, under its group-based approach, the broadcasting licences for the English-language conventional television stations CJNT-DT Montréal; CITY-DT Toronto and its transmitters CITY-DT-2 Woodstock and CITY-DT-3 Ottawa; CHMI-DT Portage La Prairie/Winnipeg; CKAL-DT Calgary and its transmitter CKAL-DT-1 Lethbridge; CKEM-DT Edmonton and its transmitter CKEM-TV-1 Red Deer; and CKVU-DT Vancouver and its transmitters CKVU-TV-1 Courtenay and CKVU-DT-2 Victoria, from 1 September 2014 to 31 August 2016.*

*The Commission also **renews**, under its group-based approach, the broadcasting licences for the national, English-language specialty Category A services The Biography Channel, G4TechTV, Outdoor Life Network and Sportsnet 360, from 1 September 2014 to 31 August 2016.*

*In addition, the Commission **renews** the broadcasting licences for the national, English-language specialty Category B service Sportsnet World and the national, English-language specialty Category C service Sportsnet, from 1 September 2014 to 31 August 2016.*

*Finally, with respect to the “OMNI” stations, as agreed to by the applicant, effective 1 September 2014, the Commission **revokes** the broadcasting licences for the multi-ethnic and multilingual conventional OMNI television stations CFMT-DT Toronto (OMNI.1) and its transmitters CFMT-DT-1 London and CFMT-DT-2 Ottawa; CJMT-DT Toronto*

*(OMNI.2) and its transmitters CJMT-DT-1 London and CJMT-DT-2 Ottawa; CJCO-DT Calgary (OMNI AB); CJEO-DT Edmonton (OMNI AB); and CHNM-DT Vancouver (OMNI BC) and its transmitter CHNM-DT-1 Victoria. The Commission will issue new broadcasting licences for these undertakings, which will take effect 1 September 2014 and expire 31 August 2016. This will have the effect of aligning the OMNI stations with a two-year renewal cycle along with other Rogers properties.*

*The two-year licence terms granted for each of the above-noted services will allow the Commission to carry out in 2016 a thorough review of the group-based approach, and to align the renewal of the broadcasting licences for Rogers' television stations and services with those of the other large private English-language ownership groups.*

## **Background**

1. In Broadcasting Regulatory Policy 2010-167 (the group-based policy), the Commission established a comprehensive framework for the group-based licensing of private television services affiliated with large, English-language Canadian television broadcasting ownership groups. The Commission's determinations relating to the implementation of the group-based approach are set out in Broadcasting Decision 2011-441, which should be read in conjunction with this decision.
2. Section 3 of the *Broadcasting Act* (the Act) sets out, among other things, the following in regard to the broadcasting policy for Canada:
  - 3.(1)(d) the Canadian broadcasting system should:
    - (ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view;
    - (iv) be readily adaptable to scientific and technological change;
  - 3.(1)(e) each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming.
3. One of the objectives of the group-based approach is to ensure the provision of stable ongoing funding to Canadian productions and in particular to independent production. To facilitate the achievement of the Act's objectives as they relate to the creation of Canadian programming, the Commission, in the group-based policy, set minimum group expenditure levels and provided the large English-language private television ownership groups (the designated groups<sup>1</sup>) with flexibility in how they

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<sup>1</sup> In the group-based policy, the Commission defined "designated groups," or "designated ownership groups," as ownership groups that generate more than \$100 million in annual revenues from private, English-language conventional television stations and own at least one English-language specialty and/or pay programming service.

may allocate their spending among various licensed undertakings, including conventional television stations and English-language specialty and/or pay programming services. The Commission also broadened the revenue base from which group expenditures are derived by adding Canadian programming expenditure (CPE) requirements to conventional television stations and to specialty Category B services with more than one million subscribers.

4. The Commission also excluded mainstream sports and national news Category C services from the group-based approach because the flexibility afforded by this approach would result in designated groups being able to direct significant amounts of spending into news or sports programming, which are already successful, and away from other types of programming that need regulatory support.
5. In Broadcasting Decision 2011-447, in which the Commission renewed the broadcasting licences for various television services affiliated with Rogers Media Inc. (Rogers) for a shortened licence term until 31 August 2014, the Commission decided that Rogers would not be considered a designated group for the purpose of the group-based approach. However, it also indicated that it would reassess the applicability of the group-based approach and Rogers' commitments to spending on Canadian programming and programs of national interest (PNI) for its City television stations and specialty Category A services at the end of the current licence term.

## **Applications**

6. Rogers, on behalf of the licensees listed in Appendices 1 and 2 to this decision, filed applications to renew the broadcasting licences for the English-language conventional City television stations and OMNI television stations, and the specialty Category A, Category B and Category C services identified in those appendices.
7. Rogers also requested the application of the group-based approach for the English-language conventional City television stations and its specialty Category A services known as The Biography Channel, G4TechTV and Outdoor Life Network (OLN), as well as Sportsnet 360 (formerly, The Score). Sportsnet 360 is a specialty Category A headline sports service providing sports news and information programming. Noting the Commission's policy regarding sports services and group-based licensing, Rogers considered it appropriate to include Sportsnet 360 in the designated group since it is not licensed as a Category C sports service.
8. Rogers proposed to exclude the following services from the designated group:
  - FX Canada (formerly Highwire), a specialty Category B service with over one million subscribers, for which the broadcasting licence expires 31 August 2017;
  - Sportsnet World (formerly Setanta Sports (Canada)), a specialty Category B service that serves fewer than 100,000 subscribers, which is

below the minimum threshold of one million subscribers to be included in a designated group;

- Sportsnet (formerly Rogers Sportsnet), which is a specialty Category C sports service and is therefore not eligible for inclusion in a designated group;
- its multi-ethnic and multilingual conventional television stations (OMNI stations), which are operated independently from the other services owned by Rogers; and
- City Saskatchewan (formerly Saskatchewan Communications Network), the designated educational television programming service for the province of Saskatchewan, which also broadcasts the same programming as the City television stations beginning in the late afternoon each day, and for which the broadcasting licence expires in 2018.

9. In regard to the length of the new licence terms, Rogers originally proposed the following:

- a two-year licence term for all services to be included in its proposed designated group (i.e., the City television stations as well as The Biography Channel, G4TechTV, OLN and Sportsnet 360), which would coincide with the expiry date for the services of the other large private English-language ownership groups and would allow for a thorough review of the group-based approach;
- seven-year licence terms for Sportsnet World and Sportsnet, which would eventually align the licence terms for its sports services so that their broadcasting licences would all expire in August 2021; and
- five-year licence terms for the OMNI stations, so as to provide a reasonable amount of time to explore whether the regulatory relief sought through this proceeding will stabilize revenue and support OMNI's cost structure.

10. However, in the final reply phase, Rogers indicated its willingness to accept two- or three-year licence terms for each of the television stations and specialty services for which the broadcasting licences are to be renewed.

## **Interventions**

11. The Commission received numerous interventions in support of, in opposition to or commenting on the above-noted applications. The public record for this proceeding can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the appropriate application numbers, which are provided in Appendices 1 and 2 to this decision.

## **Commission's analysis**

12. Based on its examination of the public record for these applications in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:

- whether Rogers has met the requirements to be considered a designated group for the purposes of the group-based approach;
- the licence terms for the various services;
- whether Sportsnet 360 should be included in Rogers' proposed designated group;
- whether Sportsnet World, FX Canada, City Saskatchewan and the OMNI stations should be excluded from Rogers' proposed designated group;
- the proposed CPE for the City television stations and the four specialty Category A services;
- whether a network licence is required in regard to Rogers' agreement with the Canadian Broadcasting Corporation (CBC) for the broadcast of National Hockey League (NHL) games and in particular in the context of the program "Hockey Night in Canada";
- imposing a new reporting requirement on the allocation of revenues and expenses related to NHL content;
- local programming and PNI;
- proposed amendments for the OMNI stations;
- imposing the vertical integration code of conduct as a condition of licence;
- compliance issues relating to G4TechTV's nature of service;
- compliance issues relating to OLN's nature of service;
- the definition of "broadcast day" for Sportsnet World; and
- terms of trade agreements for the City television stations and specialty Category A services.

### **Rogers' designated group**

13. After reassessing the applicability of the group-based approach and Rogers' commitments to spending on Canadian programming and PNI for its City television stations and specialty Category A services, the Commission determines that Rogers has met the requirements to be considered a designated group for the purposes of that approach. In this regard, none of the interventions received raised this as a specific issue to be addressed. Accordingly, the Commission will treat the services set out in Appendix 1 to this decision as a designated group under its group-based approach. The Commission's rationale in regard to those services that have and have not been included in the designated group is set out below.

## **Licence terms**

14. As noted above, Rogers originally proposed various licence terms for its television stations and specialty services, but finally indicated its willingness to accept two- or three-year licence terms for all of its stations and services.
15. In the Commission's view, a two-year licence term for each of Rogers' stations and services would allow the Commission to carry out a thorough review of the group-based approach in 2016 by aligning the renewal of the broadcasting licences for Rogers' television stations and services with those of the other large private English-language ownership groups. The Commission is currently undertaking a broad-based review of a number of its policies relating to television broadcasting that will likely have an impact on these services and may change the group-based approach as it is currently applied.
16. Accordingly, the Commission **renews** the broadcasting licences for the City television stations and the specialty services listed in Appendices 1 and 2 to this decision from 1 September 2014 to 31 August 2016. The terms and **conditions of licence** for these services are set out in Appendices 3 through 10.
17. As agreed to by Rogers, effective 1 September 2014, the Commission **revokes** the broadcasting licences for the multi-ethnic and multilingual conventional OMNI television stations CFMT-DT Toronto (OMNI.1) and its transmitters CFMT-DT-1 London and CFMT-DT-2 Ottawa; CJMT-DT Toronto (OMNI.2) and its transmitters CJMT-DT-1 London and CJMT-DT-2 Ottawa; CJCO-DT Calgary (OMNI AB); CJEO-DT Edmonton (OMNI AB); and CHNM-DT Vancouver (OMNI BC) and its transmitter CHNM-DT-1 Victoria, which expire 31 August 2015. The Commission **will issue** new broadcasting licences for these undertakings, which will take effect 1 September 2014 and expire 31 August 2016. The terms and **conditions of licence** for these stations are set out in Appendices 11 through 15.

## **Inclusion of Sportsnet 360 in the designated group**

18. As noted above, Rogers requested that Sportsnet 360 be included in the designated group. It argued that the service's status as a specialty Category A service makes it eligible for inclusion.

## **Interventions**

19. The Canadian Media Production Association (CMPA), On Screen Manitoba, and the Writers Guild of Canada (Writers Guild), among others, supported the inclusion of Sportsnet 360 in the designated group. They also expressed the concern, however, that Rogers may use its new spending flexibility to unduly support its recent acquisition of NHL rights and other sports programming at the expense of its support for other genres of Canadian programming.
20. Bell Media Inc. (Bell), the Alliance of Canadian Cinema, Television, and Radio Artists (ACTRA), and, in a joint intervention, the Public Interest Advocacy Centre,

the Council of Senior Citizens Organizations of British Columbia and the National Pensioners Federation (collectively, PIAC et al.) opposed the licensee's proposal. They noted that the objective of the group-based approach is to assist Canadian services with the production of quality Canadian programming, especially in under-represented categories, rather than to divert resources away from such programming in order to underpin existing or additional sports programming initiatives. Bell added that Rogers is proposing to meet the threshold simply by adding the expenditure levels of one of its sports services, but without the objective of developing Canadian content in under-represented categories.

21. These parties submitted that Rogers, in its applications, did not appropriately address how it would allocate revenues and expenses from sports programming within the designated group, or within its existing group of sports services, and did not address the overall impact of sports programming for the designated group. They further argued that including Sportsnet 360 would allow Rogers to offload sports programming expenses to other services within the group.

***Rogers' reply***

22. According to Rogers, including Sportsnet 360 in the designated group would increase its spending on under-represented categories of programming and its overall group investment in Canadian independent production.
23. In reply to Bell's concern over sports programming, Rogers noted that RDS Info, CP24 and BNN, which are all included in Bell's designated group as Category A services, derive considerable benefits from their Category C news and sports sister services in terms of programming and operational synergies, and provide significant CPE allocation opportunities for Bell's group. Rogers further noted that no restrictions have been imposed on Bell with respect to the inclusion of these services.

***Final comments***

24. At the hearing, Bell maintained that including Sportsnet 360 would not parallel the inclusion of RDS Info in Bell's group because RDS Info does not broadcast live premium sports, such as NHL hockey games, which will be the case for Sportsnet 360.

***Commission's analysis***

25. In Broadcasting Decision 2013-207, the Commission approved an application for a change in the effective control of The Score (now Sportsnet 360) as well as an application for amendments to the broadcasting licence for that service. Further, it renewed the service's broadcasting licence until 31 August 2014 in order to align its expiry date with that of Rogers' other services. In that decision, the Commission considered the service to be a specialty Category A service since its conditions of licence would differentiate the service from mainstream sports services.

26. In its present application, Rogers has not requested any amendments to or the deletion of any of Sportsnet 360's current conditions of licence for the next licence term.
27. In regard to the concerns expressed by certain interveners, Rogers confirmed at the hearing that Sportsnet, its Category C service, would be the main broadcaster of NHL hockey games. Although Sportsnet 360 will share certain similarities with Sportsnet once it begins to broadcast NHL games, Sportsnet 360 will continue to be a distinct headline sports service with a number of restrictions on the broadcast of live sports events, analysis and long-form documentaries that distinguish it from a Category C service.
28. In addition, although the group-based approach excludes mainstream sports and national news Category C services from designated groups, it does not impose limits on the percentage of expenditures that can be allocated to news or sports programming for services that are included in such groups. Further, no such limits have ever been imposed on any of the current designated groups.
29. Finally, the Commission notes that any risks that may stem from including Sportsnet 360 in the designated group would be mitigated by Rogers' proposal to submit annual reports detailing the allocation of all NHL revenues and expenses, which will permit a full assessment of the impact of this service on Rogers' group CPE. Such a risk would also be mitigated by the Commission's decision to renew the broadcasting licence for the service for a two-year term, thereby allowing for a re-examination of the appropriateness of including it in Rogers' designated group in the near term.
30. In light of the above, the Commission considers that the specialty Category A service Sportsnet 360 is eligible for inclusion in Rogers' designated group. Accordingly, the Commission **approves** the licensee's request in this regard. The Commission will have the opportunity to review the impact of this decision as part of Rogers' next licence renewal.

#### **Exclusion of services from the designated group**

31. Rogers requested that Sportsnet World, FX Canada and City Saskatchewan be excluded from its designated group. Rogers did not file applications to renew the broadcasting licences for either FX Canada or City Saskatchewan, which expire 31 August 2017 and 31 August 2018, respectively.

#### ***Interventions***

32. The Directors Guild of Canada (Directors Guild) did not object to excluding City Saskatchewan, Sportsnet World and FX Canada from Rogers' designated group, but stated that the composition of the group should be re-examined in 2016. The Documentary Organization of Canada (DOC) stated that Rogers should include FX Canada and City Saskatchewan in its designated group since these services are currently taking advantage of cost efficiencies related to the acquisition of some U.S.

shows and to their being broadcast on both the City television stations and FX Canada. In its view, the fact that the licences for these services do not expire this year should not be a valid reason to exclude them from the designated group.

### **Commission's analysis**

33. Sportsnet World, as a specialty Category B service for which the number of subscribers is below the minimum threshold to be included in a designated group, is ineligible for inclusion in the designated group. Accordingly, the Commission **approves** Rogers' request to exclude this service from its designated group.
34. In regard to FX Canada, the Commission notes that it has not directed other large ownership groups to include in their designated groups any specialty Category B services that serve more than one million subscribers and for which the broadcasting licences are not up for renewal. Accordingly, the Commission **approves** Rogers' request to exclude FX Canada from its designated group. It further notes Rogers' intention to request that this service be included in its designated group as of the next group licence renewal in 2016.
35. The Commission further notes that it renewed the broadcasting licence for City Saskatchewan until 31 August 2018 when Rogers acquired the station from Bluepoint Investments Inc. in 2012.<sup>2</sup> It granted a full licence term to provide certainty and stability of funding for Saskatchewan audiences and the production community, and to ensure that the commitments made by Rogers in that decision would benefit the people of Saskatchewan. In the Commission's view, it would be inconsistent with the intent of that decision to require Rogers to submit an early licence renewal application to include the service in the designated group at this time. Accordingly, the Commission **approves** Rogers' request to exclude City Saskatchewan from its designated group.
36. Finally, given that the OMNI television stations are multi-ethnic and multilingual conventional television stations that are operated independently from the other services owned by Rogers, the Commission **approves** Rogers' request to exclude these services from its designated group.

### **Canadian programming expenditures**

37. In examining the appropriateness of Rogers' proposal regarding the CPE levels for its designated group and individual services, the Commission has considered the proposed CPE levels for the City television stations (excluding City Saskatchewan) and for the various specialty Category A services in the context of a deal Rogers has signed for NHL broadcast rights. Specifically, towards the end of 2013, Rogers signed a 12-year, \$5.2 billion deal with the NHL for the broadcast and multiplatform rights to the full NHL season, beginning in 2014-2015 and ending in 2025-2026. The deal gives Rogers all national rights to all NHL games, including playoffs, and

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<sup>2</sup> See Broadcasting Decision 2012-339.

special events such as future NHL all-star games and NHL drafts, on all platforms in the English language.

38. The Commission notes that Rogers has sub-contracted rights for “Hockey Night in Canada” games to the CBC but will retain editorial control and all advertising revenues. Rogers has also sub-contracted all French-language multi-media rights to TVA, TVA Sports and TVA Sports 2.
39. Rogers announced that it will broadcast more than 1,250 hours of live games coverage during the regular season, as well as pre-game shows on Saturdays and Sundays beginning at 5 p.m. on the City television stations. In addition, it will produce features on the game’s top stars and hundreds of grassroots community features to air during a program called “Hometown Hockey,” to be broadcast on Sunday evenings.

***Rogers’ proposal***

40. At the hearing, Rogers committed to a group CPE level of 30% beginning immediately in Year 1 of the new licence term. This would be achieved by increasing the City television stations’ (excluding City Saskatchewan) CPE level from 23% to 25% as per the Commission’s formula for the calculation of the group CPE,<sup>3</sup> and by maintaining the current CPE levels for the other services to be included in the designated group (40% for The Biography Channel, 40% for G4TechTV, 41% for OLN, and 47.8% for Sportsnet 360).
41. Rogers also requested the financial flexibility to share CPE requirements across all of the services included in the designated group, as per the group-based approach. It does not currently have the flexibility to shift its CPE spending obligations between its specialty Category A services and the City television stations.
42. In Rogers’s view, it would be inappropriate to exclude sports programming from its proposed group CPE requirement given that Bell’s group includes RDS Info, a specialty Category A sports news service similar to Sportsnet 360. It noted that other large designated groups do not have restrictions on the type or genre of programming that can be used to calculate CPE obligations. To allay any concerns in this regard, Rogers indicated that it has little discretionary CPE leftover that could be diverted to sports programming since most of its CPE spending is already committed for the next broadcast year. It added that should it divert an unreasonable amount of its CPE spending to sports programming, the Commission will have an opportunity to consider this in the context of the 2016 licence renewal proceeding.

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<sup>3</sup> The formula set out by the Commission in the group-based policy indicates that a CPE requirement would be established on the conventional television networks of eligible groups by subtracting the CPE requirements of the eligible specialty services from the group’s overall CPE requirement of 30%. In effect, the CPE requirement of the conventional television stations would “bridge the gap” and bring the effective CPE of each eligible group to 30%.

### ***Interventions***

43. According to Bell, Rogers is seeking to evade one of the principal objectives of the group-based approach, which it stated is to establish a minimum, aggregate level of spending for each designated group. It argued that the Commission must consider recent changes in Rogers' programming asset mix, as well as its significant potential for future revenues and profitability within its designated group, in order to establish CPE requirements for that group. For its part, PIAC et al. stated that Rogers should be expected to abide by the same policies and rules imposed on Bell and Shaw in consideration of its overall asset mix.
44. Corus Entertainment Inc. (Corus), ACTRA, On Screen Manitoba, the CMPA, the Writers Guild and the Directors Guild all supported Rogers' proposed group CPE. Unifor, a national union created in 2013 through the merger of the Communications, Energy and Paperworkers Union of Canada and the Canadian Auto Workers Union, noted that the proposed group CPE would be met simply by adding Sportsnet 360 into the mix and that the designated group's "actual new Canadian programming and Canadian content investments" would not increase as a result of renewing the broadcasting licences for Rogers' services under the group-based approach.
45. In regard to spending flexibility across the services of the designated group, ACTRA submitted that the amount of CPE that Rogers may reallocate to Sportsnet 360 from its other services should be limited. For its part, PIAC et al. stated that Sportsnet 360 should not be an eligible recipient of any of the CPE requirements imposed on the other services in the group.

### ***Rogers' reply***

46. Rogers noted that no other large designated group has restrictions on the type or genre of programming that can be used to calculate CPE obligations. It argued that it would therefore be unfair and inconsistent with the Commission's current application of its group-based approach to impose such restrictions in its case.

### ***Final comments***

47. In its final comments, Bell did not oppose Rogers' application to be treated as a group and to benefit from the group-based approach. It submitted, however, that Rogers must accept commensurate obligations and that the Commission must take reasonable steps to maintain the purpose and integrity of the approach. In this regard, it argued that the proposed structure for the NHL-related revenues and expenses could result in expenditures leaving the Canadian broadcasting system. Bell noted that Rogers could assign its revenues and expenses among services (specifically to the CBC and Sportsnet) to avoid CPE and/or PNI expenditure obligations that would otherwise be incurred by services in the designated group.
48. In addition, Bell proposed that the expenditures on pre- and post-game shows, as well as expenditures on "Hockey Night in Canada" should be included in the group CPE, but that expenditures on live sporting events should be excluded.

49. The CMPA expressed the view that the ability of Rogers to allocate revenues and costs not only between regulated and unregulated properties but also between broadcasters poses a real and substantial threat to the Commission's ability to determine the appropriate numbers to be used to calculate CPE.

***Commission's analysis***

50. With the acquisition of the NHL broadcast rights, Rogers will broadcast significant numbers of hours of sports programming on some of the services in its designated group, in particular, the City television stations and Sportsnet 360. The Commission considers that Rogers' sports-focused programming strategy tests the boundaries of the group-based approach, which, as noted above, does not impose limits on the percentage of expenditures that can be allocated to news or sports programming for services that are included in the designated groups, but does exclude mainstream sports and national news Category C services.
51. The new programming strategy Rogers described would result in increased expenditures on sports programming on its services and, consequently, a reduction in expenditures on other programming genres that it currently supports. In fact, the revised financial projections submitted by Rogers at the hearing confirm its plans to reduce its spending on program categories relating, for example, to news programming, and increase its spending on sports programming for the next two years.
52. Rogers noted, however, that since most of its programming expenditures are already allocated for next year, it cannot reallocate these expenditures to sports programming, which will minimize the impact of the new programming strategy in the first year of the licence term. In addition, it proposed a new reporting requirement on the allocation of the revenues and expenses on NHL content, which would allow the Commission to monitor Rogers' actual spending on NHL programming and its impact on other types of programming. This report will be discussed in greater detail in a section below.
53. Were the Commission to deny Rogers the flexibility to transfer CPE across all of its services under the group-based approach, Rogers would nevertheless broadcast and spend significant amounts on NHL programming on its City television stations and to a lesser degree on Sportsnet 360, which would inevitably have an impact on its spending on other types of programming. Any impact would be mitigated, however, by Rogers' other regulatory requirements, such as those relating to the exhibition and production of local programming and PNI, as discussed below.
54. In light of the above, the Commission does not consider it necessary at this time to impose a limit on Rogers' group CPE as it relates to spending on sports programming. However, the Commission remains concerned with the possible impact that this programming will have on Rogers' services. Should the Commission determine that it would be appropriate to impose such a limit based on the

information provided by virtue of the new reporting requirement, it will have an opportunity to do so in the context of the 2016 licence renewals.

55. In regard to the CPE requirement for the City television stations, the Commission considers that the proposed 25% would allow Rogers to attain a CPE level of 30% for the designated group.
56. In regard to Bell's suggestion to include some of the expenditures on the NHL content and exclude others, the Commission considers that this would involve a high level of monitoring on its part, which may prove impractical. It further considers that concerns and allegations relating to the possibility of large sums of money leaving the Canadian broadcasting system were not substantiated by clear evidence.
57. Accordingly, the Commission **approves** Rogers' proposal regarding a CPE level of 30% for its designated group, including a CPE requirement of 25% for the City television stations (excluding City Saskatchewan), to be implemented at the beginning of the first year of the new licence term. The Commission also **approves** Rogers' proposal to maintain the individual CPE requirements at their current levels for each of its specialty Category A services included in the designated group.
58. In addition, the Commission **approves** Rogers' request regarding spending flexibility across the various services of its designated group. Accordingly, Rogers' specialty Category A services that are part of the designated group will have the flexibility to attribute up to 100% of their required CPE to any other qualifying specialty service or conventional television station within the designated group. Its conventional television stations will have the flexibility to attribute up to 25% of their required CPE to qualifying specialty services within the designated group.

#### **Network licence**

59. In regard to the sub-contracting by Rogers of the CBC's program "Hockey Night in Canada" to the CBC, certain interveners raised the issue of whether the agreement between the two parties should be characterized as a network agreement and, consequently, whether Rogers should be required to apply for a network licence to authorize the agreement with the CBC.
60. A "network" is defined in the Act as including "any operation where control over all or any part of the programs or program schedules of one or more broadcasting undertakings is delegated to another undertaking or person." The Commission's policy on television networks, which is set out in Public Notice 1989-2, identified the concept of "delegation of control" as one of the key elements for determining whether an undertaking is operating a network. The Commission determines that there has been a delegation of control from a television station to another party, and that a television network does exist, when one or more of the following criteria are present:
  - Formal reserved time – This exists where a television broadcaster, as a condition of the acquisition of all or parts of a program, is required by a

formal agreement to broadcast the program at a specified time or within specified time frames.

- De facto reserved time – This exists where there is no formal contract or written reserved time commitment, but where there is evidence that a program, or programs are being broadcast by more than one undertaking at a designated time and where, in the Commission’s view, the program or programs affect the Canadian broadcasting system in a way similar to that where a formal reserved time agreement exists. [...] Another indicator of the existence of de facto reserved time is the simultaneous broadcast of the program by a number of local stations.
- Editorial control – This can be exercised in two distinct ways: the power to edit or alter the contents of a program and the power to decide whether or not to broadcast a program. The definition of “network” in the Act implies that broadcasters may delegate control over part or all of a program or program schedule to another party, namely, a licensed network operator. Accordingly, editorial control is a key criterion in determining the existence of a network.

#### ***Final comments and Rogers’ reply***

61. The Forum for Research and Policy in Communications (FRPC), the CMPA and PIAC et al. submitted that the agreement between Rogers and the CBC has all the characteristics of a network as defined in the Act. They argued that Rogers’ control over the NHL programming on the CBC requires a network licence and a contribution to CPE. The CMPA stated that both Rogers and the CBC should be required to seek and obtain a network licence for their NHL hockey network, and that this network should be required to support Canadian programming at a level consistent with the advertising revenues that Rogers will receive through the use and control of the CBC properties.
62. According to the Writers Guild, Rogers seemed to indicate at the hearing that this agreement is essentially a “brokered time arrangement.” It questioned the validity of this characterization, arguing that such arrangements normally involve infomercials or niche talk programming.
63. Rogers, in its reply to final comments, stated that the requirement to obtain a network licence is a needless administrative requirement that has no practical effect. It stated that such a determination would not impact any of the services in the designated group or the required contributions to a group CPE and PNI.

#### ***Commission’s analysis***

64. The CBC is delegating to Rogers some production and all editorial control for all hockey games broadcast on the CBC (mainly “Hockey Night in Canada”), as well as the control of advertising sales and all of the associated revenues.

65. As noted in Public Notice 1991-63, which was issued when the current version of the Act was created, the Act defines three major types of broadcasting undertakings: programming undertaking, distribution undertaking and network. In that public notice, the Commission stated that these licence classes should reflect the primary function of the undertaking to be licensed (i.e., program origination, program distribution, or network operation).
66. In the present case, the primary function of the undertaking to be licensed would be the operation of a network for the purposes of executing Rogers' agreement with the CBC. In the Commission's view, the agreement with the CBC does not constitute a "brokered or bartered programming" agreement, contrary to Rogers' claim.
67. The absence of a network licence would not in and of itself constitute a breach of the Act since both Rogers and the CBC are licensed broadcasting undertakings. However, section 3(1)(h) of the Act sets out that "all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast." Because of the nature of the agreement, wherein the CBC obtains exhibition rights to certain NHL games while delegating editorial and advertising control to Rogers, the absence of a network licence could make it difficult to ultimately decide which party is responsible for the programming being broadcast on the CBC's national over-the-air television network during the broadcast of "Hockey Night in Canada."
68. Should the Commission receive a complaint regarding this programming in the absence of a network licence, it would have to decide which licensee is liable under the circumstances. A network licence would help set out the roles and responsibilities of the parties involved as well as the purpose of the network. This would in turn facilitate the Commission's decision making process in the case of a complaint.
69. In light of the above, the Commission directs Rogers to file, by no later than **15 August 2014**, an application for a network licence to authorize its agreement with the CBC. Once that application is received, it will be assessed by the Commission on its own merits in the context of a public proceeding. In order to allow sufficient time to process such an application, the Commission requires Rogers to file, also by no later than **15 August 2014**, an application for a temporary network licence, which would be in effect until such time as the Commission makes its determinations in regard to a permanent licence.

#### **New reporting requirement**

70. During the hearing, various parties expressed concerns over the allocation of revenues and expenses relating to the NHL rights across Rogers' licensed and exempt broadcasting undertakings as well as with the CBC. In particular, they noted that Rogers might allocate revenues and expenses between services within and outside of the Rogers' designated group in such a way that it would minimize the CPE amounts required of the group and maximize the CPE counted towards the requirement.

71. The Commission also asked Rogers during the hearing to comment on the potential requirement to provide audited financial statements relating to the NHL activities. Such statements would provide the Commission with access to the most complete and reliable data regarding revenue and expenses relating to the NHL content.
72. In response to concerns raised by various interveners regarding the allocation of NHL revenues and expenses across its multiple channels and platforms, and in lieu of providing audited financial statements for all of its NHL activities, Rogers submitted an alternative three-part proposal. The proposal would include the following components:
- establishing an allocation methodology policy;
  - engaging auditors to submit a report testing the allocation against the methodology described in the policy; and
  - providing a full unaudited revenue and expense breakdown of all NHL rights exploited on its licensed programming services.
73. In regard to the first component, Rogers proposed to provide the Commission with a defined allocation methodology whereby revenues and expenses would be broken out separately for a) the various licensed linear television stations and specialty services; and b) licensed pay-per-view and video-on-demand services, and unlicensed Internet services.
74. In regard to the second component, Rogers stated that it would engage its auditors to issue a “Report on Specified Procedures” (the Report) for the broadcast year ending 31 August 2015. The Report would provide information on the consistency of Rogers’ application of its methodology for allocating revenues and expenses relating to the NHL content, and would include the following:
- documentation of the scope of work to be performed; and
  - documentation of the specified procedures to be performed, to include:
    - obtaining a listing of all NHL revenues and expenses in question and performing testing to validate the revenues and expenses on a sample basis;
    - confirming NHL revenues and expenses are recorded in the accounting books of record; and
    - re-performing and re-calculating the allocation of revenues and expenses to ensure the mathematical accuracy of the application of the methodology.
75. The Report would also contain a summary of the procedures that were performed and the results of those procedures, including any discrepancies or issues noted by the

auditor. It would be filed with the Commission and would be made available to the public.

76. In regard to the third component, Rogers proposed to file, on a confidential basis, a second, unaudited report containing NHL revenue and expenditure breakdowns for all NHL rights exploited on its licensed programming services.

***Final comments***

77. According to the CMPA, the ability of Rogers, or of any other broadcaster, to allocate revenues and costs not only between regulated and unregulated properties but also between broadcasters “poses a real and substantial threat to the Commission’s ability to determine the appropriate numbers to be used to calculate CPE.”
78. According to Bell, the proposed structure for the NHL-related revenues and expenses could result in monies leaving the Canadian broadcasting system. It argued that Rogers could assign its revenues and expenses among services (specifically to the CBC and Sportsnet) to avoid CPE and/or PNI expenditure obligations that would otherwise be incurred by services in the designated group. Bell submitted that the Commission should therefore ensure that NHL revenues are not disproportionately allocated to Sportsnet, as such an allocation would minimize PNI spending requirements for the Rogers services.
79. The Writers Guild supported the agreement in principle, but welcomed the Commission’s monitoring of the agreement. It stated that “[t]here appears to be a clear incentive to attribute more NHL-derived revenue to digital platforms so as to avoid the obligations that would attach to the regulated broadcast of those games.” It further supported the Commission’s efforts to understand those attributions. As such, the Writers Guild submitted that the Commission should be able to examine all revenues that Rogers derives from the distribution and exhibition of NHL games to ensure that they are being attributed appropriately, whether on a licensed or unlicensed platform. It noted that this could include regular or sporadic audits of Rogers’ attributions.

***Commission’s analysis***

80. As a general practice, the Commission does not provide direction for appropriate methods of allocation for revenues and expenditures on programming, whether between licensed broadcasting undertakings and exempt programming undertakings, or across various broadcast years. Instead, it relies on industry standards and practices, as well as the auditing of the financial records by the licensee’s auditors, to ensure appropriate allocation of these costs. Also, all allocation methods used by licensees must be in line with Canadian generally accepted accounting principles (G.A.A.P.).
81. Currently, all licensees generating over \$10 million in revenues must provide audited financial statements for their activities. However, no licensee or group is required to

provide breakdowns of certain revenues for any specific licensed service at the level of granularity proposed in this proceeding. The Report would be a unique requirement that would go above and beyond requirements imposed on other licensees. As noted above, it would be made available to the public, on the Commission's website. In addition to ensuring greater transparency, this would provide the industry as well as Canadian consumers with the opportunity to review Rogers' allocation methodology as well as any information provided, and assess their appropriateness.

82. In light of the above, the Commission finds that Rogers' proposal represents an appropriate and reasonable solution towards ensuring a degree of accountability for Rogers in regard to its allocation of NHL revenues and expenses, without necessarily imposing on Rogers an additional auditing requirement for all NHL-related revenues and expenses. Nevertheless, the Commission also considers it appropriate to require the following:

- The allocation methodology policy (component 1 above), developed with Rogers' auditors, defining the NHL revenue and expense allocation methodology including but not limited to the allocation of NHL revenues and expenses across all channels and between linear and non-linear categories, must be submitted to the Commission and made available to the public by no later than **31 October 2014**.
- The Report (component 2 above) must include information on the allocation of all NHL revenues and expenses covering licensed programming undertakings, the above-noted network, and all unlicensed services for the broadcast year. The Report must summarize the work performed and provide the results of the performance of the specified procedures. The full audited report must be submitted by 30 November following the end of each broadcast year, which corresponds to the filing deadline for annual returns.

83. The Report must provide details relating to the accounting methodology chosen and provide reasons for the allocation of NHL revenues and expenditures between the various licensed programming undertakings, the above-noted network, and all exempt services. In regard to the proposed unaudited revenue and expenditure breakdown (component 3 above), the Commission notes that Rogers' proposal appears to include information on revenues and expenses for its licensed services only. It does not appear to include information on the revenues and expenses for exempt services, such as those that would fall under the digital media exemption order. In the Commission's view, to allow a full assessment of the implications of the NHL rights deal with the CBC, Rogers must include information on the allocation of all NHL revenues and expenses covering licensed programming undertakings, the above-noted network, and all exempt services. This document would be filed annually, by the 30 November following the end of each broadcast year. Given that it would contain commercially sensitive information regarding revenues generated by individual services, the Commission is willing to accept this report in confidence.

84. In Appendix 3 to this decision, the Commission has imposed a **condition of licence** relating to the requirement to submit the above-noted reports.

#### **Local programming and programs of national interest**

85. In Broadcasting Regulatory Policy 2011-442, the Commission set out standard conditions of licence for English-language conventional television stations requiring those that operate in non-metropolitan markets to offer a minimum of seven hours of Canadian local programming each broadcast week, and those that operate in metropolitan markets to offer a minimum of 14 hours. Rogers stated that it would continue to provide at least 14 hours of Canadian local programming per broadcast week on its City television stations operating in metropolitan markets, and seven hours of such programming on its City television station in Portage La Prairie/Winnipeg, Manitoba, a non-metropolitan market.

86. In response to questioning at the hearing, Rogers indicated, however, that it would not commit to an additional requirement that the above-noted local programming be composed of original programs, which the Commission has typically defined as programs that, at the time of broadcast, have not been previously broadcast by the licensee or by any other licensee. It confirmed, however, that it would continue to abide by the current conditions of licence that are applicable to CJNT-DT Montréal, set out in the appendix to Broadcasting Decision 2012-697, including that requiring the station to broadcast a minimum of 15.5 hours of original local programming per broadcast week.

87. Rogers also proposed to increase expenditures on the acquisition of or investment in PNI by services that are part of its designated group to 5% of their previous year's gross revenues, and to allocate at least 75% of PNI expenditures to independent production companies. In light of this proposal, it requested the deletion of its current conditions of licence relating to incremental local programming expenditures.<sup>4</sup>

88. Finally, Rogers stated that it would adhere to a new condition of licence requiring that no NHL hockey games or any other professional sports programs (i.e., live, pre- and post-shows) that are broadcast would count towards the local programming exhibition requirements of the City television stations.

#### ***Interventions***

89. Unifor submitted that Rogers' request for a trade-off between increased PNI expenditure requirements and its commitments to local programming for its City television stations should be denied. In its view, Rogers should provide clarification on the impact that the proposed amendments would have on local jobs and programming availability. Further, it recommended imposing a requirement of

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<sup>4</sup> In Broadcasting Decision 2011-447, the Commission required Rogers, by condition of licence, to devote 2.5% of its gross revenues to new incremental programming in each of the first and second years of the current licence term, dropping to 2% for the third year, and to ensure that at least 80% of those expenditures are made on programming produced outside of Toronto.

20 hours of local programming per broadcast week for stations in metropolitan markets and 14 hours per broadcast week for stations in non-metropolitan markets.

90. The DOC expressed concern over Rogers' request to drop its current commitment to local programming on its City television stations, and requested that the Commission ensure continued support for this type of programming.
91. The CMPA, the Writers Guild and the Directors Guild supported Rogers' proposed commitment to group PNI expenditures. However, the Writers Guild submitted that all PNI expenditures should be for true PNI as defined in the group-based policy and not for reality television or other types of programming outside of the specified PNI genres.

### ***Commission's analysis***

#### Broadcast of local programming

92. The Commission notes Rogers' commitment to continue to adhere to the standard requirements relating to the broadcast of local programming in metropolitan and non-metropolitan markets, and considers it appropriate to require Rogers to adhere to those commitments. **Conditions of licence** in this regard are set out in Appendix 4 to this decision.
93. The Commission further notes Rogers' commitment to adhere to a requirement whereby NHL hockey games or any other professional sports programs would not count towards the local programming exhibition requirements of the City television stations, and considers it appropriate to require Rogers to adhere to that commitment. A **condition of licence** in this regard is set out in Appendix 4.

#### Broadcast of original local programming

94. The Commission notes that Rogers filed revised financial projections at the hearing that indicate significant spending reductions for news programming from the first to the second years of the new licence term. These spending reductions raise concerns over Rogers' plans regarding local programming for the City television stations over the next licence term.
95. In Broadcasting Regulatory Policy 2009-406, the Commission stressed the importance for local television stations to maintain a local presence in the markets they serve. To this end, the Commission is of the view that the offer of original local programming, as a means of maintaining a local presence, remains a key role and central responsibility of conventional television stations.
96. It was this concern that gave rise to the Commission's questioning at the hearing regarding an original local programming requirement. In considering Rogers' position that it would not commit to provide original local programs, the Commission compared the total number of hours of local programming and original local programming that were broadcast in the 2012-2013 broadcast year by the

English-language conventional television stations in markets where a City television station is operating. An examination of the television logs submitted by each of these stations for that broadcast year indicates that virtually all of the local programming broadcast by these stations is already being reported as original programming and that, with very few exceptions, the original local programming broadcast by these stations meets or exceeds the minimum amount of local programming required during the 2012-2013 broadcast year. Accordingly, it appears that Rogers is capable of meeting a requirement to broadcast an amount of original local programming that is equivalent to its minimum local programming requirements (i.e., 14 or 7 hours per broadcast week) for all of its City television stations.

97. Given the size and importance of the markets that the City television stations are licensed to serve, and given the priority that it places on the provision of local programming by local television stations such as the City television stations, the Commission considers it appropriate to require Rogers to broadcast an amount of original local programming that is equivalent to its minimum local programming requirements (i.e., 14 or 7 hours per broadcast week) on each of the City television stations that are part of the present proceeding. **Conditions of licence** to that effect are set out in Appendix 4 to this decision. To ensure that the programming in question is truly original to the City television stations, the Commission, for the purposes of those conditions of licence, defines “original local programming” as consisting of local programs that, at the time of broadcast, have not already been broadcast by any other programming undertaking in Canada, including those of the licensee.

#### Expenditures on programs of national interest

98. In the group-based policy, the Commission set the minimum requirement relating to PNI expenditures at 5% of a designated group’s previous year’s gross revenues. It also required all designated groups to ensure that 75% of the PNI expenditures are allocated to independently produced programs.
99. In the context of the renewal of the licences for its services in 2011, Rogers indicated, among other things, that it could not meet the 5% minimum PNI expenditure requirement of a designated group, due to its asset mix at the time. The Commission therefore imposed a condition of licence requiring Rogers to spend a minimum of 2.5% of its gross revenues on PNI in each of the first and second years of the current licence term, increasing to 3% in 2013-2014 in lieu of the 5% PNI requirement imposed on designated groups.
100. In its present applications, however, Rogers agreed to abide by the above-noted requirements relating to PNI expenditures and to allocate a portion of those expenditures to independent production. Further, the Commission notes that Rogers’ asset mix has changed such that it is now in a position to adhere to the standard PNI requirements set out in the group-based policy. Accordingly, the Commission considers it appropriate to require Rogers to adhere to the 5% PNI expenditure requirement as part of the present licence renewal for its services, and to ensure that

75% of those expenditures are made to independent production companies.  
**Conditions of licence** to that effect are set out in Appendices 4 to 8 to this decision.

Expenditures on new incremental local programming

101. In Broadcasting Decision 2011-447, the Commission also required Rogers, by condition of licence, to devote 2.5% of its gross revenues on new incremental local programming in each of the first and second years of the current licence term, dropping to 2% for the third year, and to ensure that at least 80% of those expenditures are made on programming produced outside of Toronto. As is currently the case with its CPE requirements, Rogers does not have the flexibility to shift these local expenditures or its current PNI spending obligations between its specialty Category A services and the City television stations.
102. As noted above, given its commitment to adhere to the PNI expenditures set out in the group-based policy, Rogers proposed the deletion of its current expenditure requirements relating to new incremental local programming. At the hearing, Rogers also confirmed that it would no longer produce the new incremental local programming once this condition of licence is deleted. Rather, it would transfer its programming expenditures to national programming, and each City television station would continue producing the “Breakfast Television” morning programs.
103. The Commission notes that the other designated groups do not have additional spending requirements relating to the production of new incremental local programming. In light of this, and given that Rogers will now adhere to the PNI expenditure requirements set out in the group-based policy, the Commission considers it appropriate to delete the condition of licence relating to new incremental local programming.

#### **Amendments for the OMNI stations**

104. Although the OMNI stations are multi-ethnic and multilingual conventional television stations, Rogers committed to adhere to the standard conditions of licence applicable to English-language conventional television stations set out in the appendix to Broadcasting Regulatory Policy 2011-442, with exceptions relating to the provision of Canadian local programming and certain social policy requirements. These requested exceptions are addressed below.
105. In its examination of Rogers’ proposed amendments for the OMNI stations, the Commission considered the following issues:
- levels and scope of multi-ethnic and multilingual programming;
  - local programming offered on the OMNI stations;
  - methods used to consult with the relevant ethnic communities; and
  - requested amendments relating to social policy requirements.

### ***Levels and scope of multi-ethnic and multilingual programming***

106. Section 3(1)(d) of the Act states that the Canadian broadcasting system should:

- (i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada,
- (ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view, and
- (iii) through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society [...].

107. Section 3(1)(r)(iii) of the Act states that “the programming provided by alternative television programming services should [...] reflect Canada’s regions and multicultural nature.”

108. In its Ethnic Broadcasting Policy, set out in Public Notice 1999-117, the Commission noted that ethnic stations are required to serve a range of ethnic groups in a variety of languages because the scarcity of broadcast frequencies may not permit the licensing of an over-the-air single-language service for each ethnic group in a given market. It stated that this approach allows for the provision of service to groups that would not otherwise be able to afford their own single-language service. It further stated that smaller ethnic groups benefit from a basic level of broadcasting in their own languages and from programming that assists in their full participation in Canadian society, reflects their culture and promotes cross-cultural understanding.

109. The Ethnic Broadcasting Policy sets out the following minimum requirements for ethnic television stations:

- they must devote to the broadcast of Canadian content at least 60% of the total number of hours broadcast annually and at least 50% of the total number of hours broadcast annually during the evening broadcast period;
- they must devote at least 60% of each broadcast month to ethnic programming;
- they must serve a minimum number of ethnic groups and languages set by condition of licence (referred to as the “broad service requirement”); and

- they must ensure that at least 50% of all programming broadcast is in a third-language.

110. Further, ethnic broadcasters are expected, at the time of licensing and renewal, to provide plans on how they will reflect local issues and concerns during the terms of their licences. They are also encouraged to establish advisory councils incorporating representatives of the ethnic communities in their service areas.

111. In Broadcasting Decision 2013-657, the Commission addressed a complaint against Rogers Broadcasting Limited (RBL), licensee of the OMNI stations, by the Communications, Energy and Paperworkers Union of Canada. The complainant had alleged that RBL was in non-compliance with a number of its conditions of licence and with the Ethnic Broadcasting Policy as a result of programming changes that occurred on the OMNI stations as of 30 May 2013. In that decision, the Commission expressed concern over the extent of the programming changes, the impact of the changes on the communities served by the stations, and the lack of information provided by RBL in regard to the level of consultation that may have taken place with the community advisory councils for its various stations about the upcoming programming cuts. Although the Commission found RBL to be in compliance with its conditions of licence, it requested that it submit licence renewal applications for the OMNI stations early in order to allow a review of the stations' programming issues.

112. Rogers submitted the licence renewal applications for the OMNI stations on 20 December 2013. In the applications, it requested an amendment to the condition of licence for each OMNI station relating to the **broad service requirement**. Rogers initially proposed that each station be required to provide programming aimed at a minimum of 10 distinct ethnic groups and 10 different languages, rather than 20 of each. However, in its final reply, it committed, for each service, to provide programming aimed at a minimum of 15 distinct ethnic groups and 15 different languages. Although it stated that it does not plan to reduce the number of groups and languages currently served in each market, Rogers submitted that the requested flexibility would permit it to alter its programming strategy should the need arise to better serve the audiences and advance the objectives of the Ethnic Broadcasting Policy.

113. Rogers also requested an amendment to its conditions of licence relating to the **broadcast of Canadian content**. As set out in the group-based policy, private conventional television stations are required to broadcast not less than 55% Canadian content between 6 a.m. and midnight, and not less than 50% Canadian content between 6 p.m. and midnight. However, under the Ethnic Broadcasting Policy, Rogers must ensure, for its OMNI stations, that not less than 60% of the programming broadcast between 6 a.m. and midnight, and not less than 50% of the programming broadcast between 6 p.m. and midnight, is Canadian. In its applications, Rogers requested that the requirement for both periods be reduced to not less than 40%. It submitted that the requested amendment would ensure the provision of meaningful and relevant programming to audiences while addressing the

disparity between the requirements imposed on ethnic specialty Category A services and the OMNI stations.

114. Further, Rogers requested the deletion of conditions of licence requiring that not more than 16% of OMNI's programming be devoted to **programs in any one foreign language** during each broadcast week. It argued that the broad service requirement imposes a natural limit on the amount of programming that can be provided in any one third language. However, in response to opposing interventions and discussions at the hearing, Rogers stated that it would instead commit to a requirement to devote not more than 30% of OMNI's programming to programs in any one third language during each broadcast week.
115. In addition, Rogers requested the deletion of conditions of licence relating to the **broadcast of ethnic programming during prime time** (i.e., between 8 p.m. and 10 p.m.). Currently, during this time period, 75%, 80% and 100% of the programming broadcast on OMNI.1 (CFMT-DT Toronto), OMNI.2 (CJMT-DT Toronto) and OMNI BC (CHNM-DT Vancouver), respectively, must be ethnic programming. In regard to OMNI AB, the Calgary and Edmonton stations are required to ensure that not less than 80% of all programming broadcast during prime time is Canadian programming, which does not necessarily need to be ethnic programming. At the hearing, Rogers requested that instead of the above requirements, it be subject to a condition of licence requiring that not less than 75% of the programming broadcast on all of these stations during prime time be ethnic programming.
116. Finally, Rogers requested the deletion of conditions of licence relating to the **prohibition on the overlap of English-language and third-language programming with the City television stations**. Instead, it proposed a single limit of 10% on the overlap of the ethnic and non-ethnic programming between the OMNI stations and the City television stations when those stations operate in the same market.
117. Rogers stated that approval of these amendments would allow it to meet the core requirements of the Ethnic Broadcasting Policy, and that the OMNI stations would continue to serve the public interest. It further submitted that the amendments are necessary for the continued operation of the stations. In this regard, Rogers cited losses in national and local advertising revenues affecting all conventional stations, increased competition from ethnic specialty Category A services for local advertising revenues, the weakening of the U.S. strip programming model that is subsidizing the production of ethnic, third-language programming, and changing viewing habits by the members of the ethnic communities who have access to other sources for programming of interest in their mother tongues.
118. Rogers also stated that in the absence of regulatory subsidies, the OMNI stations cannot continue to operate under their current conditions of licence. It expressed concern over how the failure to take immediate action to stabilize the stations' financial situation would jeopardize the ethnic broadcasting sector in Canada and

weaken the strong foundation that the OMNI stations have built over the last three decades.

119. After examining revenue and expenditure information provided by Rogers in regard to the OMNI stations, the Commission acknowledges that the stations are experiencing financial difficulties. In the Commission's view, approval of the requested regulatory relief could contribute to improving OMNI's financial performance. However, should the Commission approve all of the amendments, Rogers would in fact not even meet the minimum requirements set out in the Ethnic Broadcasting Policy. The Commission has concerns over whether it would be appropriate to allow such extensive regulatory relief considering OMNI's unique mandate as a conventional ethnic television network licensed to provide Canadian multi-ethnic and multilingual communities with news, information and entertainment programming that assists ethnic communities in fully participating in Canadian society, reflects their culture, and promotes cross-cultural understanding.

120. Below, the Commission sets out its determinations in regard to each of the proposed amendments.

#### Broad service requirement

121. The Ethnic Broadcasting Policy does not impose a specific minimum number of distinct ethnic groups to be served in a minimum number of different languages. Instead, in an application for a broadcasting licence to operate a new ethnic television service, the applicant must make proposals in this regard, generally based on demographic statistical information provided by Statistics Canada for the market(s) to be served. Then, the Commission generally imposes conditions of licence based on the commitments made by the applicant.

122. In regard to Rogers' request, interveners expressed concerns about smaller segments of new Canadians losing services in their own languages and the possible shift in programming focus to the largest, most profitable ethnic groups, which they argued is not consistent with the expectations and contributions of ethnic broadcasters. In reply, Rogers indicated that reducing the number of distinct ethnic groups and distinct languages to be served would remove the need to broadcast large amounts of repeat programming in certain markets in order to meet regulatory requirements. It confirmed that it has no immediate or short-term plans to terminate its relationship with any of the local independent production partners with which the OMNI stations are currently working.

123. Given that Rogers did not specify which ethnic groups would see reductions in or loss of access to programming, it is difficult to evaluate the impact that the requested amendments would have on viewers from the ethnic communities. Furthermore, Rogers did not identify these changes as priorities towards redressing OMNI's financial difficulties. In fact, as noted above, Rogers, in its final reply, proposed to provide programming aimed at a minimum of 15 distinct ethnic groups in a minimum of 15 different languages, rather than the initial proposal of 10 for each. In

the Commission's view, approval of the requested amendments would not advance the objectives of the Ethnic Broadcasting Policy. It considers that it would therefore be appropriate to maintain the current requirement that each service provide programming aimed at a minimum of 20 distinct ethnic groups, in 20 different languages. Accordingly, the Commission **denies** Rogers' request in this regard.

#### Broadcast of Canadian programming

124. Asian Television Network International Limited (ATN) submitted that approving the requested reductions to the broadcast of Canadian content would be inappropriate and unjustified prior to completing the scheduled review of the Ethnic Broadcasting Policy. Bell submitted that should the Commission approve such a reduction for the OMNI stations, a similar reduction should be approved for other conventional television stations. The DOC and ACTRA, on the other hand, submitted that the OMNI stations should, at a minimum, maintain the same level of Canadian content as the other conventional television stations.
125. The Commission considers that it would be inappropriate for the OMNI stations to broadcast a level of Canadian content that is less than that required by other conventional television stations. Accordingly, it **denies** Rogers' proposal to broadcast not less than 40% Canadian content during the broadcast day and evening broadcast period. However, lowering Rogers' overall requirement on the broadcast of Canadian content to a level in line with the requirements set out in the *Television Broadcasting Regulations, 1987* (Television Broadcasting Regulations), which apply to other private conventional television stations, would provide it with some relief to address the financial difficulties experienced by its OMNI stations. Accordingly, the Commission has imposed on the OMNI stations the same requirement that is applicable to the other private conventional television stations licensed under the group-based approach, in accordance with the Television Broadcasting Regulations and as permitted by the Ethnic Broadcasting Policy on a case-by-case basis. The OMNI stations shall therefore ensure that not less than 55% of the programming broadcast between 6 a.m. and midnight, and that not less than 50% of the programming broadcast between 6 p.m. and midnight, are devoted to the broadcast of Canadian programs. **Conditions of licence** to that effect are set out in Appendices 11 to 15 to this decision.

#### Limit on programming in any one foreign language

126. During its appearance at the hearing, Fairchild Television Inc. (Fairchild) opposed Rogers' revised proposal to devote not more than 30% of OMNI's programming to programs in any one foreign language during each broadcast week, since it estimated that it would allow Rogers to broadcast close to 330 hours of Chinese-language programming per broadcast month.
127. In the Commission's view, approval of the requested amendment would allow Rogers to more specifically focus its programming on a small number of ethnic groups, quite possibly the larger ethnic groups that generate the most advertising revenue. As such, the OMNI stations could meet the broad service requirement by

offering only a minimal amount of programming for other ethnic or language groups. In this regard, the Commission notes that Rogers had requested similar licence amendments during the 2009 renewal of the broadcasting licences for the OMNI television stations. In that case, the Commission determined that the 16% limit on any one third language continued to be appropriate.

128. Rogers did not provide a clear indication of how an increase to 30% would change the number of hours dedicated to each language in which programming must be offered, or the extent to which this change might affect the ethnic, third-language specialty Category A services that are licensed to serve particular ethnic groups. Consequently, it is difficult for the Commission to evaluate the overall impact that such an increase could have. Finally, the Commission considers that the 16% limit will ensure that Rogers maintains its mandate to serve a broad range of ethnic groups, including those smaller groups that cannot support their own individual services, as envisioned by the Ethnic Broadcasting Policy. Consequently, the Commission **denies** Rogers' request in this regard.

Broadcast of ethnic programming during prime time

129. PIAC et al. stated that a requirement relating to the broadcast of ethnic programming during prime time should be imposed on the Alberta stations. It further stated that any amendment that is approved should benefit the ethnic communities that the OMNI stations serve.

130. Individuals who intervened in this proceeding expressed concerns over how Rogers' initial request for the deletion of the requirement to broadcast ethnic programming during prime time on OMNI.1, OMNI.2 and OMNI BC could affect the broadcast of newscasts to various ethnic communities in languages such as Mandarin, Cantonese, Punjabi and Hindi. Many argued that the majority of members of the South Asian and Chinese communities watch the news between 8 p.m. and 10 p.m. and would like the newscasts to continue to be scheduled during that time period.

131. The Commission notes that approval of Rogers' final proposal to replace its current individual requirements with a requirement to devote not less than 75% of the programming broadcast on its OMNI stations to ethnic programming between 8 p.m. and 10 p.m. would allow it to broadcast 5% less ethnic programming on OMNI.2 and 25% less on OMNI BC during that broadcast period. However, the amendments would benefit OMNI AB viewers who until recently may have had little or no access to ethnic programming during prime time. This requirement for the Calgary and Edmonton stations would ensure that a minimum number of hours are dedicated to the broadcast of ethnic programming when viewers are typically watching television across all of the OMNI stations. In the Commission's view, the requested amendment would address concerns expressed by many individuals and organizations representing ethnic communities over Rogers' initial proposal to delete the scheduling requirements between 8 p.m. and 10 p.m.

132. There is a clear interest in continued access to local ethnic and third-language programming during the prime time viewing period. Further, harmonizing the requirement relating to the broadcast of ethnic programming between 8 p.m. and 10 p.m. across all of the OMNI stations would simplify Rogers' management of its regulatory requirements at the group level. Accordingly, the Commission **approves** Rogers' request. **Conditions of licence** in this regard are set out in Appendices 11 to 15 to this decision.

Overlap of English- and third-language programming with the City television stations

133. Fairchild noted that the Commission saw fit to impose the current restrictions on the overlap of programming between the OMNI stations and the City television stations given that Rogers was allowed to own two conventional television stations (one OMNI and one City) in many of Canada's large television markets. For its part, ATN questioned whether there was reasonable evidence showing that the requested amendments are necessary. Finally, the Fraser River Community Crematorium suggested increasing the limit on the overlap of programming between the OMNI stations and the City television stations from 10% to 20%.

134. As set out in certain appendices to Broadcasting Decision 2009-504, in any market containing both an OMNI and a City television station:

- not more than 10% of all programming broadcast during each broadcast week shall be broadcast on both the OMNI and the City television station; and
- no third-language ethnic programming shall be broadcast on both the OMNI and the City television station.

135. In that same decision, the Commission also set out, by condition of licence, the requirement that the English-language programming broadcast on the OMNI stations be distinct from the priority programming aired on the City television stations between 7 p.m. and 11 p.m. in a given market.

136. In Broadcasting Decision 2009-504, the Commission also denied requests for amendments to these restrictions so as to ensure a maximum level of programming diversity in the broadcasting system. Given that Rogers is operating two conventional television stations in Calgary, Edmonton and Vancouver and three in Toronto (City, OMNI.1 and OMNI.2), these restrictions limit the broadcast of identical programs and increase programming diversity on the stations operating in these markets.

137. Based on the 18-hour broadcast day under which the OMNI stations operate, Rogers' new proposal would permit the broadcast of up to 12.6 hours a week of identical non-ethnic (i.e., English-language) or third-language ethnic programming, or a combination of both. At the present time, none of the third-language ethnic programming can be broadcast on both an OMNI station and a City television station operating in the same market. Approval of Rogers' request would provide some economy of costs for Rogers but could result in less programming diversity in a

market where both stations are present. Considering that Rogers did not quantify the savings attached to the proposed amendment, it is difficult to evaluate, on balance, if the viewers would end up losing more than the benefit gained by Rogers with the approval of this change.

138. In light of the above, and to better maintain programming diversity in each market where both an OMNI station and a City television station operate, the Commission considers it appropriate to maintain the conditions of licence relating to the 10% limit on programming broadcast on both the OMNI and City television stations and to the prohibition on the broadcast of third-language ethnic programming on both OMNI and City television stations. Consequently, it **denies** Rogers' request to delete those conditions of licence.

139. In regard to the restriction on the overlap of English-language priority programming broadcast between 7 p.m. and 11 p.m., the Commission notes that this restriction was eliminated for the City television stations in Broadcasting Decision 2011-447. The Commission considers that it would therefore be appropriate to delete from the broadcasting licences for its OMNI stations the condition of licence setting out that restriction. Accordingly, it **approves** Rogers' request in this regard.

#### ***Local programming offered on the OMNI stations***

140. Rogers submitted that there was no reason to impose new requirements relating to either the broadcast of local programming on its OMNI stations or in-house production since OMNI has demonstrated a commitment to both and continues to operate at a financial loss. It further argued that due to serious financial difficulties, the required 14/7 hours of local programming for metropolitan/non-metropolitan markets should not apply to the OMNI stations. According to Rogers, these financial difficulties stem from various competitive pressures, as well as losses in national and local advertising revenues affecting all conventional stations.

141. However, in response to concerns raised regarding the lack of local programming offered on the OMNI Alberta stations (CJCO-DT Calgary and CJEO-DT Edmonton), it committed to increase local programming broadcast by those stations from three to five hours per broadcast week, and to make a reasonable effort to acquire a portion of the programming from the Edmonton market.

#### **Interventions**

142. Numerous individuals, special interest groups, and organizations representing or serving ethnic communities expressed concern over Rogers' overall commitment to local programming. The FRPC as well as Unifor and its local branch in Toronto noted the cancellation of 13 ethnic news and information programs in 2012 and 12 more in 2013 through the OMNI network. They further noted that CJEO-DT's television studio shut down in 2011 and that program production at CJCO-DT ceased in 2012. These parties argued that these cuts have led to a heavy reliance on ethnic program re-runs throughout the OMNI network to meet their conditions of licence,

and have left Rogers close to the minimum standards set by the Ethnic Broadcasting Policy in terms of languages being offered per station.

143. ATN submitted that an equitable level of local programming should be required for the OMNI stations since Rogers is soliciting local advertising in the markets in which they operate.
144. In regard to the absence of local programming on CJCO-DT and CJEO-DT, both Unifor and the FRPC requested that the Commission impose regulatory sanctions to force Rogers to reinstate the production of local programming. Unifor stated that the broadcasting licences for these stations should be suspended until Rogers commits to providing the daily local ethnic programming it promised when it was granted the licences.
145. In its final comments, Unifor Local 830M, which represents the unionized employees at CKVU-DT and OMNI BC, submitted that Rogers did not address the concerns raised by the Commission in Broadcasting Decision 2013-657 regarding the lack of local programming on the OMNI stations. It argued that OMNI BC should be required to broadcast a minimum of 14 hours of local original in-house news and reinstate the previous resources for the Chinese news programming. Similarly, the FRPC proposed a requirement of 14.5 hours of original local programming per broadcast week for all OMNI stations.

#### Commission's analysis

146. As noted above, in Broadcasting Decision 2013-657, the Commission expressed particular concern over the apparent lack of local programming on some OMNI stations. While it found Rogers to be in compliance with its conditions of licence relating to the broadcast of local programming, the Commission remained concerned over the apparent lack of such programming on certain OMNI stations. Consequently, in order to review these programming issues at an earlier date and to consider appropriate measures relating to local programming, the Commission requested that Rogers submit licence renewal applications for the OMNI television stations early.
147. As set out in the Ethnic Broadcasting Policy, a primary responsibility of over-the-air ethnic television stations should be to serve and reflect their local community. While that policy does not impose specific percentages or a minimum number of hours of local programming to be offered by stations, there is a clear expectation for licensees to provide, at the time of licensing and licence renewal, specific plans as to how the stations will reflect local issues and concerns during the terms of their licences.
148. As mentioned above, Rogers indicated that it would not be appropriate to impose a requirement for the broadcast of local programming on the OMNI stations considering the difficult financial situation in which the stations find themselves. When asked about the cost of imposing the broadcast of 14 hours of local programming per broadcast week on all OMNI stations, Rogers indicated that it

would represent approximately \$2 million a year. In the Commission's view, imposing this requirement may create an undue financial burden for Rogers.

149. In response to concerns raised by interveners, during a discussion at the hearing, Rogers committed to increase the local programming produced for the Calgary and Edmonton stations from the current three hours a week to five hours a week for both stations, and to make a reasonable effort to acquire a portion of the programming from the Edmonton market.

150. Given the importance placed on local reflection in the Ethnic Broadcasting Policy and the role played by conventional television stations more generally, the Commission is of the view that imposing a minimum requirement for the broadcast of local programming in these markets is appropriate. The Commission notes in this regard Rogers' admission that it currently broadcasts three hours of independently produced local programming in Calgary, with no such programming being produced in Edmonton despite the fact that it was granted broadcasting licences following a competitive process during which it committed to offer 29 hours of local programming each week for both stations.<sup>5</sup> Consistent with Rogers' commitment to support the production of a minimum of five hours of local independent programs in Alberta, the Commission considers it appropriate to impose a variation of Rogers' commitment, which recognizes the specificities of each market. It considers that this new requirement will have a relatively small financial impact on Rogers but a positive impact on the ethnic communities in Calgary and Edmonton.

151. Accordingly, the Commission requires Rogers to ensure that a minimum of 3.5 hours of local programming is broadcast each broadcast week on the Calgary station, and that a minimum of 1.5 hours of local programming is broadcast each broadcast week on the Edmonton station. **Conditions of licence** to that effect are set out in Appendices 13 and 14 to this decision.

***Methods used to consult with the relevant ethnic communities***

152. In the Ethnic Broadcasting Policy, the Commission encouraged broadcasters to establish advisory councils incorporating representatives of the ethnic communities in their service areas. Rogers indicated that it dissolved the formal advisory councils for its OMNI stations in 2010 and largely replaced them with community liaison officer (CLO) positions in Vancouver, Calgary, Edmonton and Toronto. When asked to explain the role of the CLOs, how they operate in comparison to the former advisory councils, and whether they are more appropriate than the advisory councils, Rogers provided the following comparative description:

- Whereas formal advisory councils were comprised of independent representatives from various ethnocultural communities in each of the markets served, each CLO is a full-time paid employee.

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<sup>5</sup> See Broadcasting Decision 2007-166.

- Whereas formal advisory councils met twice each year to discuss OMNI's programming diversity and standards (i.e., journalist standards), the CLOs are responsible for developing local productions, conducting community outreach and consultation (including attending charitable events, meetings, community gatherings), and fostering partnerships with local ethnic organizations and events (including pre-promotion and coverage of local initiatives, initiating round-table discussions).
- Whereas the resources for formal advisory councils were more focused on the maintenance of the councils themselves, CLOs enable better opportunities to engage with a large number of new and established local ethnocultural communities, and have achieved greater community outreach.

#### Interventions

153. Unifor, the FRPC, the Council of Agencies Serving South Asians, and an individual questioned the merit of Rogers' decision to replace the advisory councils with CLOs. They requested that the advisory councils be re-established to gain valuable input and insight on what is required locally and not just nationally. According to Unifor and its local branches in Toronto and Vancouver, the CLOs cannot offer the same level of engagement, insight and involvement as advisory councils. It also stated that the advisory councils should include at least one representative from the employees involved in producing ethnic and third-language programming for OMNI. The Vancouver branch of Unifor noted that the CLO model has yet to produce results in Edmonton, although Rogers has promised results at an unspecified future date. The FRPC argued that Rogers, by eliminating the advisory councils and cancelling news and other programs without consulting the communities affected, has not met its commitments to the multicultural communities it was licensed to serve.

#### Commission's analysis

154. The Ethnic Broadcasting Policy encourages but does not require the creation of advisory councils. Nevertheless, the Commission considers that the contributions of such councils help ensure that ethnic broadcasters appropriately reflect the multicultural communities in the markets they serve and involve the communities in broadcasting activities. The Commission is of the view that in replacing the formal advisory councils with CLOs, Rogers has not violated the policy since the CLO positions were created to achieve many of the same objectives. It is also the Commission's view, however, that a single paid employee cannot offer the same level of engagement, insight and involvement as the advisory councils envisioned by the Ethnic Broadcasting Policy.

155. The fact that CLOs were described by Rogers as members of OMNI's management team involved in the day-to-day operations of the stations begs the question as to whether they have a sufficient mandate and latitude to defend the public interest of the ethnic communities. Given that Rogers mentioned that it continues to seek advice from former council members on current programming projects and that these

consultations are one of the many functions coordinated by each of the CLOs, it appears to the Commission that the advisory councils could play a relevant and complementary role to the CLOs.

156. To assist local ethnic communities that wish to become involved with OMNI and ensure that Rogers provides an appropriate level of programming commensurate with the demographics of each market where OMNI operates, the Commission directs Rogers to reinstate an advisory council in each of Ontario, Alberta and British Columbia and to confirm, by no later than **30 November 2014** that this has been accomplished. The Commission also directs Rogers to submit a report once a year, by no later than the 30 November following the end of the previous broadcast year, on the activities and accomplishments of each advisory council. **Conditions of licence** to that effect are set out in Appendices 11 to 15 to this decision.

***Requested amendments relating to social policy requirements***

157. In regard to social policy requirements as they pertain to the OMNI stations, the Commission has considered requests and commitments made by Rogers in regard to the closed captioning of English- and French-language programming, the provision of described video, and the closed captioning of advertising, sponsorship messages and promos. The Commission notes that PIAC et al. opposed Rogers' proposed amendments.

**Closed captioning of English- and French-language programming**

158. Rogers is currently required, by condition of licence, to close caption 100% of the English- and French-language programs broadcast on OMNI each broadcast day. In its application, Rogers requested the deletion of the requirement to provide 100% closed captioning for French-language programming. It argued that the infrastructure in place to achieve this is not the same as the infrastructure in place for the closed captioning of English-language programming. Rogers noted that should it continue to be required to close caption all of its French-language programming, it would comply by (i) removing local French-language programming or (ii) sourcing French-language programming that is already captioned. In this regard, the Commission notes that based on proposed programming schedules, OMNI does not currently broadcast any French-language programs.

159. In Broadcasting and Telecom Regulatory Policy 2009-430, the Commission noted that it no longer considers captioning technology a factor when considering requests for exceptions to the requirement that 100% of programming, English- or French-language, be closed captioned. Should Rogers begin broadcasting French-language programming on its OMNI stations, the Commission considers that 100% of that programming should be closed captioned. Accordingly, the Commission **denies** Rogers' request.

#### Described video

160. Rogers is currently required, by condition of licence, to provide a minimum of four hours of programming with described video each broadcast month, to be fully achieved by the end of the current licence term.<sup>6</sup> In fulfilling this condition, a minimum of 50% of the required hours broadcast must be original to the service.
161. Rogers requested that it be required to maintain the minimum amount of described video per broadcast month rather than being subject to the standard condition of licence applicable to private, English-language conventional television stations, whereby licensees must provide a minimum of four hours of described video per broadcast week, of which two hours must be programming broadcast in described video for the first time on the service. It argued that given the limited amount of programming broadcast on OMNI that is suitable for described video, the standard condition of licence would impose difficulties on ethnic conventional television stations. Rogers also submitted that the majority of OMNI's original programming is news, current affairs or information-based programming that is not conducive for described video.
162. In Broadcasting Decision 2009-504, the Commission noted that as much as 40% of the program schedule of the OMNI stations is comprised of English-language programming suitable for described video. Furthermore, it expected OMNI to devote a minimum of four hours per broadcast week to programs with described video by the end of the licence term. In light of this, the Commission **denies** Rogers' request. Consistent with the standard conditions of licence applicable to private, English-language conventional television stations, the Commission requires Rogers to provide a minimum of four hours of described video programming per broadcast week, of which 50% must consist of programming original to the service. However, as this requirement represents a significant change from OMNI's current requirement, Rogers has until the end of the licence term to achieve the required levels of described video programming. **Conditions of licence** in this regard are set out in Appendices 11 to 15 to this decision.

#### Closed captioning of advertising, sponsorship messages and promos

163. Rogers is currently expected to ensure that advertising, sponsorship messages and promos are closed captioned by the end of the current licence term. In its application, Rogers submitted that it is not feasible to provide closed captioning for local advertisements in English in light of OMNI's financial struggles. It committed, however, to ensuring that the majority of national, English-language advertisements are captioned.
164. Rogers further submitted that while it can provide closed captioning for the majority of national advertisements, there are financial implications associated with doing so with respect to local advertising. Rogers currently splits the advertising inventory

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<sup>6</sup> See condition of licence 14 set out in Appendix 1 to Broadcasting Decision 2009-504.

with local independent producers and captions the English-language advertising that are a part of its inventory. It expressed reluctance to require local producers to pay for closed captioning in their inventory in light of OMNI's existing disadvantage in competing for local advertising revenue.

165. The Commission notes that the amount of advertising that would be subject to the requested relief represents approximately 3% of all of OMNI's English-language advertisements. Should Rogers be required to close caption these local advertisements, its costs would be approximately \$1,200 annually. Notwithstanding OMNI's financial situation, the Commission considers that it would be appropriate to require Rogers to provide closed captioning for all English- and French-language advertising, sponsorship messages and promos. **Conditions of licence** to that effect are set out in Appendices 11 to 15 to this decision.

#### **Imposition of the vertical integration code of conduct as a condition of licence**

166. In Broadcasting Regulatory Policies 2011-601 and 2011-601-1, the Commission set out its vertical integration framework. Vertical integration refers to the ownership or control by one entity of programming services (such as conventional television stations, or pay and specialty services) and distribution services (such as cable systems or direct-to-home satellite services).

167. One of the key objectives of the vertical integration framework is to ensure that Canadians continue to benefit from a wide choice and flexibility in the programs and programming services they receive. It is also designed to limit potential abuses of market power and to ensure fair treatment for independent broadcasting distribution undertakings (BDUs) and programming services. In that framework, the Commission acknowledged the increased potential for preferential treatment but expressed the view that vertical integration can also lead to benefits, such as cost savings and increased efficiencies.

168. In Broadcasting Regulatory Policy 2011-601 the Commission stated that a code of conduct was necessary to guide the commercial interactions between the various industry stakeholders and to ensure that no party uses its market power to engage in anti-competitive behaviour. Accordingly, in Appendix 1 to that regulatory policy, it set out a code of conduct for commercial arrangements and interactions (the Code of conduct), which establishes the guidelines for commercial arrangements between BDUs (including exempt BDUs), programming undertakings, and undertakings that are exempted under Broadcasting Order 2009-660 (new media exempt undertakings). It noted that the Code of conduct shall serve as a basis for guiding commercial interactions between these parties while negotiating agreements in the broadcasting market. It further noted that the principles set out in the Code of conduct would permit all industry players to negotiate on fair and equal terms.

#### ***Interventions***

169. Certain interveners proposed that Rogers should be required to adhere, by condition of licence, to certain provisions of the Code of conduct given that such conditions of

licence were imposed on BCE Inc. (BCE) when it acquired Astral Media inc.<sup>7</sup> and on Corus when it acquired the TELETOON services, Historia and Séries+.<sup>8</sup> They expressed the concern that Rogers' recent acquisition of extensive broadcast rights to NHL games coupled with its position as one of Canada's largest media companies may result in it using its leverage and market power during negotiations to engage in anti-competitive behaviour or increase rates at the expense of Canadian consumers. For its part, Hollywood Suite, a Canadian independent producer, submitted that possible negative effects of Rogers' applications on the availability and diversity of programming for Canadians must be examined as part of this proceeding.

170. Certain interveners proposed that the Commission direct Rogers to apply, as a condition of approval for the renewal of the broadcasting licences for the services examined as part of this proceeding, for conditions of licence relating to the Code of conduct for all of its broadcasting services, whether or not they are the subject of any particular proceeding.

#### ***Rogers' reply***

171. Rogers objected to the interveners' request regarding the imposition of conditions of licence relating to the Code of conduct, arguing that groups that own and operate only a small number of pay and specialty television services should not be subject to the same regulatory safeguards that have been adopted for entities that hold substantially larger interests in Canada's premium television sector and, in some instances, have demonstrated an inclination to behave in an anti-competitive manner.

172. It added that the Commission's decision to impose such conditions of licence on BCE and Corus was not prompted solely by the fact that the two entities are vertically integrated. It argued that they were imposed in the context of approving applications to acquire a number of new pay and specialty television programming services.

173. Rogers noted that the television services it owns and operates achieve a total television audience share of only 8.9% in English-language markets, and its four specialty Category A services have a combined viewing share of only 4.6%. It added that it has not applied to acquire new programming services that would increase its percentage of total television audience share above the 35% threshold set out in the Diversity of Voices Policy (Broadcasting Public Notice 2008-4).

#### ***Commission's analysis***

174. In regard to the above-noted acquisitions by BCE and Corus, the Commission deemed it necessary to establish safeguards to limit the potential for anti-competitive behaviour by those licensees. It considered that imposing conditions of licence to structure negotiations and detail obligations in regard to limiting the potential for

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<sup>7</sup> See Broadcasting Decisions 2013-310 and 2014-62.

<sup>8</sup> See Broadcasting Decisions 2013-737 and 2013-738, respectively.

anti-competitive behavior would be appropriate measures to ensure that the Canadian broadcasting system remains competitive.

175. The acquisition of the NHL broadcast rights by Rogers is similar to the acquisition of premium programming services by BCE and Corus since the acquired broadcast rights are extensive in terms of length of time and broadcast opportunities, and relate to premium content that is very lucrative and attractive to subscribers. The very nature of the content acquired could create a potential for Rogers to use its market power in an anti-competitive manner in its negotiations with parties over the terms and conditions for the distribution of its services, in particular, Sportsnet and Sportsnet 360.

176. The decision to impose elements of the Code of conduct is done on a case-by-case basis, and not only in the context of the acquisition of programming services. In the Commission's view, imposing elements of the Code of conduct on Rogers would be of assistance to parties that may enter into a dispute with Rogers, to resolve the dispute in a reasonable timeframe. In addition, on the assumption that Rogers is already applying the principles reflected in the Code of conduct in its business relationships with other Canadian entities, the impact of such requirements should be low. Accordingly, the Commission considers that the elements of the Code of conduct relating to programming services should be imposed on Rogers' programming undertakings to ensure a level playing field with Canadian entities that will have business relationships with Rogers in the future. **Conditions of licence** to that effect are set out in Appendix 3 to this decision.

#### **G4TechTV's compliance with its nature of service**

177. Each Category A, Category B or Category C service, whether it is pay or specialty, is subject to a condition of licence setting out its nature of service. This condition of licence includes both a nature of service definition and a list of program categories from which the service may draw programming.<sup>9</sup> In many cases, additional conditions of licence are imposed to limit the amount of programming from certain program categories that may be broadcast on the service, or to tailor the nature of service if deemed necessary by the Commission.

178. The nature of service definition for G4TechTV, set out by condition of licence in Appendix 4 to Broadcasting Decision 2011-447, reads as follows:

2.(a) The licensee shall provide a national, English-language specialty Category A service consisting exclusively of programming related to computing, technology and the Internet.

179. Although G4TechTV may draw programming from all program categories, the Commission imposed the following conditions of licence setting out restrictions on

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<sup>9</sup> The full list of program categories is set out in Item 6 to Schedule I of the *Specialty Services Regulations, 1990*, as amended from time to time.

the amount of programming that may be drawn from certain categories for broadcast on the service:

2.(c) During each broadcast month, not more than 10% of all programming broadcast shall be drawn from each of categories 2(b) Long-form documentary, 6(a) Professional sports, 7(d) Theatrical feature films aired on TV and 7(e) Animated television programs and films.

2.(d) During each broadcast week, no more than 15% of all programming broadcast shall be drawn from category 7 Drama and comedy.

2.(e) During each broadcast month, no more than 10% of all programming broadcast shall be drawn from categories 8(b) Music video clips and 8(c) Music video programs combined.

180. In Broadcasting Decision 2011-447, the Commission considered that some of G4TechTV's programming was not in compliance with its nature of service definition. Consequently, it directed Rogers to file a report by no later than 1 March 2012 detailing the measures it had taken to ensure that the service was in compliance with its nature of service definition. Upon examination of that report, the Commission found that a considerable amount of G4TechTV's programming remained out of compliance with its nature of service and announced that it would implement enforcement measures if Rogers was not in compliance by 1 September 2012. Subsequently, the Commission called Rogers to a show cause hearing.<sup>10</sup>

181. Rogers then informed the Commission that it had taken immediate steps to implement programming changes that would bring G4TechTV into full compliance with its nature of service definition and all other regulatory requirements and policies. It also committed to submit monthly program schedules to the Commission to confirm its ongoing compliance. As a result, Rogers' appearance at the show cause hearing was suspended. However, the Commission indicated that it would review G4TechTV's monthly programming schedules filed between 5 November 2012 and 5 November 2013 and that it may examine the non-compliance issues as part of the licence renewal for the service.

182. In its application, Rogers indicated that it has been in compliance with G4TechTV's nature of service, and requested to be relieved from the requirement to submit monthly programming schedules. Although Rogers' request received support from the Writers Guild and Corus, the Writers Guild added that the requested relief should be granted only if the Commission is convinced that G4TechTV is in full compliance with its nature of service and that the filing of monthly reports represents a genuine burden to Rogers.

183. Based on its examination of the monthly programming schedules filed by Rogers and of the programming schedules and program descriptions posted on G4TechTV's

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<sup>10</sup> See Broadcasting Notice of Consultation 2012-560.

website, the Commission finds that the broadcast of programs on G4TechTV has been in compliance with its nature of service definition since January 2013. Accordingly, the Commission **approves** Rogers' request to delete the requirement to submit to the Commission, on a monthly basis, programming schedules for G4TechTV.

#### **Outdoor Life Network's compliance with its nature of service**

184. The nature of service definition for OLN, set out by condition of licence in Appendix 5 to Broadcasting Decision 2011-447, reads as follows:

2.(a) The licensee shall provide a national, English-language specialty Category A service devoted exclusively to programs that deal with outdoor recreation, conservation, wilderness and adventure.

185. Although OLN may draw programming from all program categories, the Commission imposed the following conditions of licence setting out restrictions on the amount of programming that may be drawn from certain categories for broadcast on the service:

2.(c) In each broadcast year, the licensee shall devote no more than 15% of the broadcast month to programs drawn from category 6(a) Professional sports and such programming shall not include stick and/or ball sports, including hockey, baseball, football, basketball, golf, soccer and tennis.

2.(d) The licensee shall devote to programs drawn from category 7 Drama and comedy as a whole no more than 10% of the broadcast month, and all such programs shall be Canadian.

2.(e) During each broadcast month, the licensee shall not broadcast more than 10% of its programming from categories 8(b) Music video clips and 8(c) Music video programs combined.

186. When it last renewed the broadcasting licence for OLN (see Broadcasting Decision 2011-447), the Commission examined requests by Rogers for amendments to conditions of licence 2.(a) and 2.(c) above. In the first case, the licensee submitted that the deletion of the word "exclusively" would establish a more consistent regulatory approach for all services and help it refine its programming strategy and increase the diversity of its programming. In the second case, it requested the deletion of the prohibition on the broadcast of stick and/or ball sports, arguing that the occasional broadcast of a professional golf tournament, as well as professional soccer and baseball, would fit within OLN's outdoor recreation and adventure theme. In this regard, it proposed the 10% standard limitation<sup>11</sup> on the amount of category 6(a) programming that may be broadcast on OLN, rather than 15%.

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<sup>11</sup> See Broadcasting Public Notice 2008-100.

187. In both cases, the Commission reiterated earlier concerns<sup>12</sup> that the proposed amendments might permit OLN to stray significantly from its nature of service definition and that such an amendment would allow OLN to compete with mainstream sports services, all the while permitting the service to continue to benefit from genre protection, an advantage not applicable to mainstream sports services. It also reminded the licensee that all of OLN's programming must be consistent with its nature of service definition and noted that it would continue to monitor the situation closely.

188. In regard to the present application, Rogers stated that it operates OLN in a manner consistent with the nature of service definition while employing a programming strategy that addresses the constantly changing interests and expectations of Canadian viewers and the current state of the Canadian broadcasting industry. It noted that the programming featured on OLN is devoted not only to outdoor recreation or adventures that occur in the wilderness, but also "includes out of the ordinary experiences that take place in the streets and neighbourhoods of urban environments." It added that programs such as "Baggage Battles," "Dog and Beth: On the Hunt," "Ghosts Hunters," "Operation Repo," "Storage Wars," "The Liquidator" and "Whisker Wars" fit squarely within OLN's nature of service definition as they "take place outdoors and focus on real, adventurous, competitive and extreme events, lifestyles or characters."

189. Rogers further noted in its applications that programs that might be thought of as traditionally fitting within OLN's programming genre are no longer available as they have been acquired by other Canadian specialty services<sup>13</sup> that operate in genres similar to OLN and are subject to long-term volume output deals with U.S. program suppliers. It added that it "had to be creative in directing the programming strategy for OLN in order to provide a unique brand that remains relevant to audiences and is consistent with its nature of service definition."

### ***Interventions***

190. The DOC, the Writers Guild and PIAC et al. submitted that OLN has strayed significantly from its nature of service and has transformed itself into a general-purpose service focusing on male demographics, with lifestyle and reality shows. The Writers Guild added that several programs broadcast on OLN do not comply with either the letter or the spirit of OLN's nature of service. The DOC and the Writers Guild argued that if the Commission does not enforce compliance in this regard, there will be continued erosion of Rogers' commitments to its nature of service definition.

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<sup>12</sup> See Broadcasting Decisions 2010-466 and 2009-569.

<sup>13</sup> Rogers refers here to National Geographic, History and Discovery.

## **Reply**

191. In reply, Rogers warned against adopting a too rigid interpretation of a service's nature of service definition that ignores societal changes and viewing trends, given the competition that Canadian specialty services face from both within and outside the regulated system. It stated that when making choices to acquire or produce programming for OLN, it looks for programming that falls under one or more of the following themes: adventure (an introduction to or experience in an exciting new world), outdoors (involves experiencing and appreciating nature and the outside world through the experiences of one or more protagonists) and recreation (celebrates 21<sup>st</sup> century recreational pastimes that have an element of excitement and adventure). In its view, these themes are entirely consistent with, and true to, the modern day brand of OLN, and with what Canadians enjoy on and expect from the service. It added that it has not received any complaints regarding the nature or quality of the programming offered on OLN.

192. Rogers stated that should the Commission have concerns relating to its compliance with OLN's nature of service, it should reserve its decision on this matter until the conclusion of the Let's Talk TV proceeding.<sup>14</sup> It proposed that compliance with OLN's nature of service definition be examined in the context of the 2016 licence renewal proceeding, at which time the renewal applications from all licensees of specialty Category A services can be examined under the same policy analysis.

## **Commission's analysis**

193. Based on its examination of OLN's programming schedule, posted on the service's website, and of the above-noted descriptions of programs, it is the Commission's view that all of the programs described above fall outside OLN's nature of service definition. It considers that Rogers' current programming strategy is based on a very liberal interpretation of its nature of service definition to the extent that the types of reality-based, lifestyle programs that fill the service's schedule have very little or no connection with what would generally be recognized as outdoor recreation, conservation, wilderness and adventure programming. Consequently, the Commission directs Rogers to file a report by no later than **31 January 2015** explaining the measures it has taken to ensure that the programming broadcast on OLN is in compliance with its nature of service definition. A **condition of licence** to that effect is set out in Appendix 7 to this decision.

## **Definition of "broadcast day" for Sportsnet World**

194. Rogers requested that the Commission amend the definition of "broadcast day" for the purposes of the conditions of licence for Sportsnet World, from an 18-hour period beginning at 6 a.m. each day, to a 24-hour period beginning at 6 a.m. each day. It stated that the 24-hour broadcast day is more appropriate to the nature of service and the programming features on its service. It noted that the live sporting

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<sup>14</sup> See Broadcasting Notice of Consultation 2014-190.

events it broadcasts take place internationally, in different time zones, and therefore at non-traditional hours for Canadian audiences.

195. The Commission finds that the proposed amendment is appropriate and does not raise any regulatory issues. Accordingly, the Commission **approves** the proposal to amend the definition of “broadcast day” for the purposes of the conditions of licence for Sportsnet World. Effective 1 September 2014, the broadcast day for that service shall mean the 24-hour period commencing at 6 a.m. each day, or any other period approved by the Commission.

#### **Terms of trade agreements**

196. In its licence renewal applications, Rogers requested the deletion of the condition of licence requiring it to abide by a terms of trade agreement with the CMPA for its City television stations and specialty Category A services, and requested that the Commission not impose this requirement on its OMNI stations. However, in reply to interventions, Rogers agreed to withdraw this request relating to its City television stations and specialty Category A services on the condition that the Commission approve its request for a two-year group licence term.

197. In light of the above, the Commission requires Rogers to continue to adhere to the terms of trade agreement conditions of licence currently set out for each of its City television stations and specialty Category A services, including Sportsnet 360. A **condition of licence** to that effect is set out in Appendix 3 to this decision.

198. The Commission notes that it will not impose such conditions of licence on the OMNI stations at this time.

#### **Reminders**

199. The Commission reminds Rogers that any remaining tangible benefits to be paid by licensees that were required by the Commission in previous decisions must be expended in a timely manner. It further reminds Rogers that annual reports detailing the allocation of the expenditures must be submitted to the Commission by no later than 30 November following the end of each broadcast year.

Secretary General

#### **Related documents**

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2014-190, 24 April 2014
- *Astral Broadcasting undertakings – Change of effective control – Follow-up to Astral-BCE Transaction*, Broadcasting Decision CRTC 2014-62, 17 February 2014
- *Historia and Séries+ – Acquisition of assets and change in effective control*, Broadcasting Decision CRTC 2013-738, 20 December 2013

- *TELETOON/TÉLÉTOON, TELETOON Retro /TÉLÉTOON Rétro and Cartoon Network – Change of effective control and TELETOON/TÉLÉTOON, TELETOON Retro /TÉLÉTOON Rétro – Licence renewal and amendment, Broadcasting Decision CRTC 2013-737, 20 December 2013*
- *Complaint by the Communications, Energy and Paperworkers Union of Canada against Rogers Broadcasting Limited relating to the cancellation of programs on OMNI television stations, Broadcasting Decision CRTC 2013-657, 5 December 2013*
- *Astral broadcasting undertakings – Change of effective control, Broadcasting Decision CRTC 2013-310, 27 June 2013*
- *The Score – Change in effective control and licence renewal and amendment, Broadcasting Decision CRTC 2013-207, 30 April 2013*
- *CJNT-DT Montréal – Acquisition of assets, Broadcasting Decision CRTC 2012-697, 20 December 2012*
- *Notice of hearing, Broadcasting Notice of Consultation CRTC 2012-560, 12 October 2012*
- *Saskatchewan Communications Network – Acquisition of assets, Broadcasting Decision CRTC 2012-339, 21 June 2012*
- *Regulatory framework relating to vertical integration, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011, as corrected by Broadcasting Regulatory Policy CRTC 2011-601-1, 14 October 2011*
- *Rogers Media Inc. – Group-based licence renewals, Broadcasting Decision CRTC 2011-447, 27 July 2011*
- *Standard conditions of licence, expectations and encouragements for conventional television stations, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011*
- *Group-based licence renewals for English-language television groups – Introductory decision, Broadcasting Decision CRTC 2011-441, 27 July 2011*
- *Outdoor Life Network – Licence amendment, 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*
- *Amendments to the Exemption order for new media broadcasting undertakings (Appendix A to Public Notice CRTC 1999-197); Revocation of the Exemption order for mobile television broadcasting undertakings, Broadcasting Order CRTC 2009-660, 22 October 2009*
- *Outdoor Life Network – Licence amendments, Broadcasting Decision CRTC 2009-569, 10 September 2009*

- *OMNI – Licence renewals*, Broadcasting Decision CRTC 2009-504, 19 August 2009, as corrected by Broadcasting Decisions CRTC 2009-504-1, 6 October 2009 and CRTC 2009-504-2, 5 December 2009
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *Policy determinations resulting from the 27 April 2009 public hearing*, Broadcasting Regulatory Policy CRTC 2009-406, 6 July 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Diversity of voices – Regulatory Policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Ethnic television stations in Calgary and Edmonton*, Broadcasting Decision CRTC 2007-166, 8 June 2007
- *Ethnic broadcasting policy*, Public Notice CRTC 1999-117, 16 July 1999
- *New Broadcasting Act – Amendments to Classes of Licence*, Public Notice CRTC 1991-63, 19 June 1991
- *Policy respecting television networks*, Public Notice CRTC 1989-2, 10 January 1989

*\*This decision and the appropriate appendices are to be attached to each licence.*

## Appendix 1 to Broadcasting Decision CRTC 2014-399

**Services for which the broadcasting licences have been renewed in this decision  
and that contribute to the group Canadian programming expenditures and  
expenditures on programs of national interest**

### English-language conventional television stations (City stations)

Licensee	Call sign / Location	Application number and date received
<b>Rogers Broadcasting Limited</b>	CJNT-DT Montréal, Quebec	2013-1759-5 16 December 2013
	CITY-DT Toronto, Ontario and its transmitters CITY-DT-2 Woodstock and CITY-DT-3 Ottawa	2013-1760-3 16 December 2013
	CHMI-DT Portage La Prairie/Winnipeg, Manitoba	2013-1761-0 16 December 2013
	CKAL-DT Calgary, Alberta and its transmitter CKAL-DT-1 Lethbridge	2013-1762-8 16 December 2013
	CKEM-DT Edmonton, Alberta and its transmitter CKEM-TV-1 Red Deer	2013-1763-6 16 December 2013
	CKVU-DT Vancouver, British Columbia and its transmitters CKVU-TV-1 Courtenay and CKVU-DT-2 Victoria	2013-1764-4 16 December 2013

### National, English-language specialty Category A services

Licensee	Name of service	Application number and date received
<b>Rogers Broadcasting Limited</b>	The Biography Channel	2013-1771-9 16 December 2013
	G4TechTV	2013-1772-7 16 December 2013
	Outdoor Life Network (OLN)	2013-1773-5 16 December 2013
<b>Sportsnet 360 Television Inc.</b>	Sportsnet 360	2013-1774-3 16 December 2013

## Appendix 2 to Broadcasting Decision CRTC 2014-399

**Services for which the broadcasting licences have been renewed in this decision and that do not contribute to the group Canadian programming expenditures and expenditures on programs of national interest**

### OMNI multi-ethnic and multilingual television stations (OMNI stations)

Licensee	Call sign / Location	Application number and date received
<b>Rogers Broadcasting Limited</b>	CFMT-DT Toronto, Ontario (OMNI.1) and its transmitters CFMT-DT-1 London and CFMT-DT-2 Ottawa	2013-1765-2 20 December 2013
	CJMT-DT Toronto, Ontario (OMNI.2) and its transmitters CJMT-DT-1 London and CJMT-DT-2 Ottawa	2013-1766-0 20 December 2013
	CJCO-DT Calgary, Alberta (OMNI AB)	2013-1768-6 20 December 2013
	CJEO-DT Edmonton, Alberta (OMNI AB)	2013-1769-4 20 December 2013
	CHNM-DT Vancouver, British Columbia (OMNI BC) and its transmitter CHNM-DT-1 Victoria	2013-1770-2 20 December 2013

### National, English-language specialty services

Licensee	Type of service	Name of service	Application number and date received
<b>6878482 Canada Inc.</b>	Category B	Sportsnet World	2013-1775-1 16 December 2013
<b>Rogers Sportsnet Inc.</b>	Category C	Sportsnet	2013-1776-9 16 December 2013

## **Appendix 3 to Broadcasting Decision CRTC 2014-399**

### **Conditions of licence applicable to the conventional City television stations; the specialty Category A services The Biography Channel, G4TechTV, Outdoor Life Network and Sportsnet 360; the specialty Category B service Sportsnet World; and the specialty Category C service Sportsnet**

#### **Conditions of licence**

1. The licensee shall submit to the Commission by no later than **31 October 2014** a document defining its policy regarding its allocation methodology of the National Hockey League (NHL) revenues and expenses, including but not limited to the allocation of NHL programming across all of its channels and between its linear and non-linear services.
2. For each year of the licence term commencing with the 2014-2015 broadcast year, the licensee shall submit to the Commission a “Report on Specified Procedures” containing all the information requested by the Commission as described in the present decision. The report shall be submitted by no later than the 30 November following the end of each broadcast year.
3. The licensee shall submit to the Commission an annual unaudited report by no later than the 30 November following the end of each broadcast year containing information on the allocation of all the revenues and expenses related to the National Hockey League (NHL) programming content broadcast on the licensed programming undertakings, the licensed network, and all exempt services operated by the licensee.
4. The licensee shall not:
  - (a) require an unreasonable rate (e.g., not based on fair market value);
  - (b) require a party with which it is contracting to accept terms or conditions for the distribution of programming on a traditional or ancillary platform that are commercially unreasonable;
  - (c) require an excessive activation fee or minimum subscription guarantee;
  - (d) impose, on an independent party, a most favoured nation (MFN) clause or any other condition that imposes obligations on that independent party by virtue of a vertically integrated entity or an affiliate thereof entering into an agreement with any vertically integrated entity or any affiliate thereof, including its own.
5. When negotiating a wholesale rate for a programming service based on fair market value, the licensee shall take into consideration the following factors:
  - (a) historical rates;
  - (b) penetration levels and volume discounts;

- (c) the packaging of the service;
  - (d) rates paid by unaffiliated broadcasting distributors for a programming service;
  - (e) rates paid for programming services of similar value to consumers;
  - (f) the number of subscribers that subscribe to a package in part or in whole due to the inclusion of the programming service in that package;
  - (g) the retail rate charged for the service on a stand-alone basis;
  - (h) the retail rate for any packages in which the service is included.
6. If the licensee has not renewed an affiliation agreement that it signed with a licensed or exempted Canadian television programming undertaking or a broadcasting distribution undertaking within 120 days preceding the expiry of the agreement and if the other party has confirmed its intention to renew the agreement, the licensee shall submit the matter to the Commission for dispute resolution pursuant to sections 12 to 15 of the *Broadcasting Distribution Regulations*.
7. The licensee shall not:
- (a) require minimum penetration or revenue levels that force distribution of a service on the basic tier or in a package that is inconsistent with the service's theme or price point;
  - (b) refuse to make programming services available on a stand-alone basis (i.e., requiring the acquisition of a program or service in order to obtain another program or service);
  - (c) impose terms that prevent an unrelated distributor from providing a differentiated offer to consumers.
8. The licensee shall not refuse to make available or condition the availability of or carriage terms for any of its licensed programming services to any broadcasting distribution undertaking (BDU) on whether that BDU agrees to carry any other separately licensed programming service, provided that this condition does not prevent or limit the right or ability of the licensee to offer BDUs multiservice or other discounts, promotions, rebates or similar programs.
9. The licensee shall not include or enforce any provision in or in connection with an affiliation agreement that is designed to prevent, or is designed to create incentives that would effectively prevent another programming undertaking or broadcasting distribution undertaking from launching or distributing another licensed programming service.

10. The licensee shall negotiate with broadcasting distribution undertakings (BDUs) for non-linear multiplatform rights to the content broadcast on the licensee's programming service at the same time as linear rights for its programming service and provide those rights to BDUs on a timely basis and on commercially reasonable terms. For certainty, nothing in this condition of licence shall prevent or otherwise restrict the licensee from requesting compensation in exchange for making such non-linear rights available to BDUs.
11. The licensee shall provide a minimum of 90 days written notice of the impending launch of a new programming service to all broadcasting distribution undertakings. Such notice shall be accompanied by an offer that sets out the general terms of carriage of the programming service to be launched.
12. The licensee shall adhere to a terms of trade agreement with the Canadian Media Production Association for English-language services.

## Appendix 4 to Broadcasting Decision CRTC 2014-399

### Terms, conditions of licence, expectations and encouragements for all conventional television stations

#### Terms

The licences will expire 31 August 2016.

#### Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for English-language conventional television stations set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time, except for conditions of licence 6, 11 and 12, which shall be replaced by the following:

For CITY-DT Toronto and its transmitters, CKAL-DT Calgary and its transmitter, CKEM-DT Edmonton and its transmitter, and CKVU-DT Vancouver and its transmitters:

(condition of licence 6)

Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as subsequently amended by the Commission, the licensee shall:

- (a) ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the first year of the licence term;
- (b) 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
- (c) 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.

(condition of licence 11)

The licensee shall broadcast not less than 14 hours of Canadian original local programming each broadcast week.

For CHMI-DT Winnipeg:

(condition of licence 6)

Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as subsequently amended by the Commission, the licensee shall:

- (a) ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the first year of the licence term;
- (b) 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
- (c) 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.

(condition of licence 12)

The licensee shall broadcast not less than seven hours of Canadian original local programming in each broadcast week.

For CJNT-DT Montréal:

(condition of licence 6)

Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as subsequently amended by the Commission, the licensee shall:

- (a) ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the second year of the licence term;
- (b) 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
- (c) 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.

(condition of licence 12)

The licensee shall broadcast not less than 15.5 hours of original local programming per broadcast week. This programming will consist of a three-hour local, English-language morning program from Monday to Friday that includes a significant amount of local news, weather and traffic, interviews and community events. The original local programming will also include a weekly half-hour local sports program dedicated to professional, amateur, university, CÉGEP and junior league sports in the greater Montréal area.

For the purposes of the above original local programming conditions of licence, “original local programming” consists of local programs that, at the time of broadcast, have not already been broadcast by any other programming undertaking in Canada, including those of the licensee.

2. The licensee may not fulfill its local programming exhibition requirements with the broadcast of any National Hockey League games or of any other professional sports programs.
3. Except as provided for in conditions of licence 4, 5 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall devote in each broadcast year to the acquisition of or investment in Canadian programming 25% of the previous year’s gross revenues of all conventional television stations of the Rogers Media group.
4. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more conventional television stations of the Rogers Media group in the same broadcast year towards fulfilling the requirement in condition of licence 3.
5. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more specialty services of the Rogers Media group in the same broadcast year towards fulfilling a combined maximum of 25% of the requirement in condition of licence 3 as long as these expenditures are not used by those specialty services towards fulfilling their own Canadian programming expenditure requirements.
6. Except as provided for in conditions of licence 7, 8 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010 (Broadcasting Regulatory Policy 2010-167), the licensee shall in each broadcast year devote to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of

Broadcasting Regulatory Policy 2010-167, 5% of the previous year's gross revenues of all specialty services and conventional television stations of the Rogers Media group.

7. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more conventional television stations or specialty services of the Rogers Media group in the same broadcast year towards fulfilling the requirement in condition of licence 6.
8. At least 75% of the expenditures on programs of national interest required by condition of licence 6 must be made to an independent production company.

For the purposes of this condition of licence, an "independent production company" is defined as a Canadian company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians, whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

9. In regard to Canadian programming expenditures and expenditures on programs of national interest:
  - (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions of licence 3 and 6, respectively; in such case, the licensee shall expend in the next broadcast 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.
  - (b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.
  - (c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming and programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions of licence 3 and 6.
10. In any market containing both an OMNI and a City television station, not more than 10% of all programming broadcast during each broadcast week shall be broadcast on both the OMNI and the City television stations.
11. In any market containing both an OMNI and a City television station, no third-language ethnic programming shall be broadcast on both the OMNI and the City television stations.

For the purposes of these conditions of licence, “Rogers Media group” is defined as all of the conventional television stations and specialty Category A services that are operated and included in Rogers Media Inc.’s designated group.

For the purposes of condition of licence 5, 6 and 7, “specialty services” excludes mainstream sports and news services, and specialty Category B services with less than one million subscribers.

### **Expectations**

The standard expectations applicable to this licensee are set out in the appendix to *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 17 July 2011, as amended from time to time.

### **Encouragements**

The standard encouragements applicable to this licensee are set out in the appendix to *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 17 July 2011, as amended from time to time.

## Appendix 5 to Broadcasting Decision CRTC 2014-399

### Terms, conditions of licence, expectations and encouragements for the specialty Category A service The Biography Channel

#### Terms

The licence will expire 31 August 2016.

#### 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, except for condition of licence 5, which shall be replaced by the following:

Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as subsequently amended by the Commission, the licensee shall:

  - (a) ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the first year of the licence term;
  - (b) 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
  - (c) 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.
2. In regard to the nature of service:
  - (a) The licensee shall provide a national, English-language specialty Category A service consisting of fact-based biographical and related programming.
  - (b) The licensee may draw programming from all the program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.

- (c) During each broadcast month, not more than 10% of all programming broadcast shall be drawn from program category 2(b) Long-form documentary, with the exception of programming of a biographical nature.
  - (d) During each broadcast week, not more than 20% of all programming broadcast shall be drawn from program category 7(d) Theatrical feature films aired on TV.
  - (e) During each broadcast month, not more than 10% of all programming broadcast shall be drawn from program category 6(a) Professional sports.
  - (f) During each broadcast month, not more than 10% of all programming broadcast shall be drawn from program category 7(e) Animated television programs and films.
  - (g) During each broadcast month, not more than 10% of all programming broadcast shall be drawn from program categories 8(b) Music video clips and 8(c) Music video programs combined.
3. The licensee shall devote not less than 50% of all programming broadcast during both the broadcast day and the evening broadcast period to the exhibition of Canadian programs.
  4. Except as provided for in conditions of licence 5 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming 40% of the previous year's gross revenues of the undertaking.
  5. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more specialty services or conventional television stations of the Rogers Media group in the same broadcast year towards fulfilling the requirement in condition of licence 4 as long as these expenditures are not used by those specialty services or conventional television stations towards fulfilling their own Canadian programming expenditure requirements.
  6. Except as provided for in conditions of licence 7, 8 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010 (Broadcasting Regulatory Policy 2010-167), the licensee shall in each broadcast year devote to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of Broadcasting Regulatory Policy 2010-167, 5% of the previous year's gross revenues of all specialty services and conventional television stations of the Rogers Media group.
  7. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more specialty services or conventional television stations of the Rogers Media group in the same broadcast year towards

fulfilling the requirement in condition of licence 6 as long as these expenditures are not used by those specialty services or conventional television stations towards fulfilling their own programs of national interest requirements.

8. At least 75% of the expenditures on programs of national interest required in condition of licence 6 must be made to an independent production company.
9. In regard to Canadian programming expenditures and expenditures on programs of national interest:
  - (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions of licence 4 and 6, respectively; in such case, the licensee shall expend in the next broadcast 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.
  - (b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.
  - (c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming and on programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions of licence 4 and 6.
10. Not less than 25% of all Canadian programs broadcast by the licensee, other than news, sports and current affairs programming (program categories 1 News, 2(a) Analysis and interpretation, 6(a) Professional sports and 6(b) Amateur sports), shall be produced by independent production companies.

For the purposes of these conditions of licence:

“Rogers Media group” is defined as all of the conventional television stations and specialty Category A services that are operated and included in Rogers Media Inc.’s designated group.

“broadcast day,” “broadcast month,” “broadcast year” and “evening broadcast period” 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*.

For the purposes of condition of licence 5, 6 and 7, “specialty services” excludes mainstream sports and news services, and specialty Category B services with less than one million subscribers.

For the purposes of conditions of licence 8 and 10, an “independent production company” is defined as a Canadian company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians, whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

### **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.

### **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.

## Appendix 6 to Broadcasting Decision CRTC 2014-399

### Terms, conditions of licence, expectations and encouragements for the specialty Category A service G4TechTV

#### Terms

The licence will expire 31 August 2016.

#### 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, except for condition of licence 5, which shall be replaced by the following:

Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as subsequently amended by the Commission, the licensee shall:

- (a) ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the first year of the licence term;
  - (b) 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
  - (c) 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.
2. In regard to the nature of service:
    - (a) The licensee shall provide a national, English-language specialty Category A service consisting exclusively of programming related to computing, technology and the Internet.
    - (b) The licensee may draw programming from all the program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
    - (c) During each broadcast month, not more than 10% of all programming broadcast shall be drawn from each of program categories 2(b) Long-form

documentary, 6(a) Professional sports, 7(d) Theatrical feature films aired on TV, and 7(e) Animated television programs and films.

- (d) During each broadcast week, not more than 15% of all programming broadcast shall be drawn from program category 7 Drama and comedy.
  - (e) During each broadcast month, not more than 10% of all programming broadcast shall be drawn from program categories 8(b) Music video clips and 8(c) Music video programs combined.
3. The licensee shall devote not less than 50% of all programming broadcast during both the broadcast day and the evening broadcast period to the exhibition of Canadian programs.
  4. Except as provided for in conditions of licence 5 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming 40% of the previous year's gross revenues of the undertaking.
  5. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more specialty services or conventional television stations of the Rogers Media group in the same broadcast year towards fulfilling the requirement in condition of licence 4 as long as these expenditures are not used by those specialty services or conventional television stations towards fulfilling their own Canadian programming expenditure requirements.
  6. Except as provided for in conditions of licence 7, 8 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010 (Broadcasting Regulatory Policy 2010-167), the licensee shall in each broadcast year devote to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of Broadcasting Regulatory Policy 2010-167, 5% of the previous year's gross revenues of all specialty services and conventional television stations of the Rogers Media group.
  7. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more specialty services or conventional television stations of the Rogers Media group in the same broadcast year towards fulfilling the requirement in condition of licence 6 as long as these expenditures are not used by those specialty services or conventional television stations towards fulfilling their own programs of national interest requirements.
  8. At least 75% of the expenditures on programs of national interest required in condition of licence 6 must be made to an independent production company.
  9. In regard to Canadian programming expenditures and expenditures on programs of national interest:

- (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions of licence 4 and 6, respectively; in such case, the licensee shall expend in the next broadcast 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.
  - (b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.
  - (c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming and on programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions of licence 4 and 6.
10. Not less than 25% of all Canadian programs broadcast by the licensee, other than news, sports and current affairs programming (program categories 1 News, 2(a) Analysis and interpretation, 6(a) Professional sports and 6(b) Amateur sports), shall be produced by independent production companies.

For the purposes of these conditions of licence:

“Rogers Media group” is defined as all of the conventional television stations and specialty Category A services that are operated and included in Rogers Media Inc.'s designated group.

“broadcast day,” “broadcast month,” “broadcast year” and “evening broadcast period” 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*.

For the purposes of conditions of licence 5, 6 and 7, “specialty services” excludes mainstream sports and news services and specialty Category B services with less than one million subscribers.

For the purposes of conditions of licence 8 and 10, an “independent production company” is defined as a Canadian company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians, whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

## **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.

## **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.

## Appendix 7 to Broadcasting Decision CRTC 2014-399

### Terms, conditions of licence, expectations and encouragements for the specialty Category A service Outdoor Life Network

#### Terms

The licence will expire 31 August 2016.

#### 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, except for condition of licence 5, which shall be replaced by the following:

Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as subsequently amended by the Commission, the licensee shall:

- (a) ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the first year of the licence term;
  - (b) 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
  - (c) 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.
2. In regard to the nature of service:
    - (a) The licensee shall provide a national, English-language specialty Category A service devoted exclusively to programs that deal with outdoor recreation, conservation, wilderness and adventure.
    - (b) The licensee may draw programming from all the program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
    - (c) During each broadcast month, the licensee shall devote not more than 15% of all programming broadcast to programs drawn from program category

- 6(a) Professional sports. Such programming shall not include stick and/or ball sports, including hockey, baseball, football, basketball, golf, soccer and tennis.
- (d) The licensee shall devote to programs drawn from program category 7 Drama and comedy as a whole not more than 10% of the broadcast month, and all such programs shall be Canadian.
- (e) During each broadcast month, the licensee shall devote not more than 10% of all programming broadcast to programs drawn from program categories 8(b) Music video clips and 8(c) Music video programs combined.
3. The licensee shall devote not less than 50% of all programming broadcast during the broadcast day and not less than 40% of all programming broadcast during the evening broadcast period to the exhibition of Canadian programs.
  4. Except as provided for in conditions of licence 5 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming 41% of the previous year's gross revenues of the undertaking.
  5. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more specialty services or conventional television stations of the Rogers Media group in the same broadcast year towards fulfilling the requirement in condition of licence 4 as long as these expenditures are not used by those specialty services or conventional television stations towards fulfilling their own Canadian programming expenditure requirements.
  6. Except as provided for in conditions of licence 7, 8 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010 (Broadcasting Regulatory Policy 2010-167), the licensee shall in each broadcast year devote to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of Broadcasting Regulatory Policy 2010-167, 5% of the previous year's gross revenues of all specialty services and conventional television stations of the Rogers Media group.
  7. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more specialty services or conventional television stations of the Rogers Media group in the same broadcast year towards fulfilling the requirement in condition of licence 6 as long as these expenditures are not used by those specialty services or conventional television stations towards fulfilling their own programs of national interest requirements.
  8. At least 75% of the expenditures on programs of national interest in condition of licence 6 must be made to an independent production company.

For the purposes of this condition of licence, an “independent production company” is defined as a Canadian company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians, whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

9. In regard to Canadian programming expenditures and expenditures on programs of national interest:
  - (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions of licence 4 and 6, respectively; in such case, the licensee shall expend in the next broadcast 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.
  - (b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.
  - (c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming and on programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions of licence 4 and 6.
10. The licensee shall not remit any program development funds to its shareholders or affiliated corporations.
11. The licensee shall submit a report to explain the measures it has taken to ensure that Outdoor Life Network’s programming is compliant with its nature of service definition, in addition to a copy of the current programming schedule and descriptions of all the programs broadcast. All the information requested must be provided to the Commission by no later than **31 January 2015**.

For the purposes of these conditions of licence:

“Rogers Media group” is defined as all of the conventional television stations and specialty Category A services that are operated and included in Rogers Media Inc.’s designated group.

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

For the purposes of conditions of licence 5, 6 and 7, “specialty services” excludes mainstream sports and news services and specialty Category B services with less than one million subscribers.

### **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 the licensee to ensure that a minimum of 75% of all original, first-run Canadian programming broadcast on Outdoor Life Network is acquired from independent production companies.

### **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.

## Appendix 8 to Broadcasting Decision CRTC 2014-399

### Terms, conditions of licence, expectations and encouragements for the specialty Category A service Sportsnet 360

#### Terms

The licence will expire 31 August 2016.

#### Conditions of licence

1. The licensee shall adhere to the standard conditions 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, except for condition of licence 5, which shall be replaced by the following:

Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as subsequently amended by the Commission, the licensee shall:

- (a) ensure that advertising, sponsorship messages and promos in the English and French languages are closed captioned by no later than the first year of the licence term;
  - (b) 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
  - (c) 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.
2. In regard to the nature of service:
  - (a) The licensee shall provide a national, English-language specialty Category A service that is dedicated to the broadcast of sports results and information in a video and text form.
  - (b) The licensee may draw programming from all the program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time, with the exception of program category 15 Filler programming.

- (c) Not more than 15% of the licensee's quarterly broadcast schedule shall be drawn from program categories 2(a) Analysis and interpretation and 2(b) Long form documentary combined.
  - (d) The licensee may broadcast live sports events coverage, provided that the hours devoted to such broadcasting do not exceed 15% of the licensee's quarterly broadcast schedule.
  - (e) All programming shall be presented in such a manner that sports results and information are continually displayed on some portion of the screen.
  - (f) The licensee shall break into all programming other than headline sports news broadcasts and live sports event programs at least once every 15 minutes to present video highlights as well as sports results and information in a format that includes both audio and video components.
  - (g) The licensee shall break into live sports event programming at least once an hour to present video highlights as well as sports results and information in a format that includes both audio and video components.
  - (h) Not more than 10% of the licensee's quarterly broadcast schedule shall be drawn from program category 7 Drama and comedy.
  - (i) Not more than 10% of the licensee's quarterly broadcast schedule shall be drawn from program categories 8(b) Music video clips and 8(c) Music video programs combined.
3. The licensee shall devote to the exhibition of Canadian programs:
- (a) at least 75% of the broadcast day and at least 60% of the evening broadcast period;
  - (b) at least 50% of the hours devoted to live sports event coverage during the prime time period.

For the purposes of this condition of licence, the term "prime time period" shall mean the total number of hours included in the period from 6 p.m. to midnight, Monday to Friday, and noon to midnight, Saturday and Sunday.

- 4. Except as provided for in conditions of licence 5 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming 47.8% of the previous year's gross revenues of the undertaking.
- 5. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more specialty services or conventional television stations of the Rogers Media group in the same broadcast year towards fulfilling the

requirement in condition of licence 4 as long as these expenditures are not used by those specialty services or conventional television stations towards fulfilling their own Canadian programming expenditure requirements.

6. Except as provided for in conditions of licence 7, 8 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010 (Broadcasting Regulatory Policy 2010-167), the licensee shall in each broadcast year devote to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of Broadcasting Regulatory Policy 2010-167, 5% of the previous year's gross revenues of all specialty services and conventional television stations of the Rogers Media group.
7. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more specialty services or conventional television stations of the Rogers Media group in the same broadcast year towards fulfilling the requirement in condition of licence 6 as long as these expenditures are not used by those specialty services or conventional television stations towards fulfilling their own programs of national interest requirements.
8. At least 75% of the expenditures on programs of national interest in condition of licence 6 must be made to an independent production company.

For the purposes of this condition of licence, an "independent production company" is defined as a Canadian company that is carrying on business in Canada with a Canadian business address, that is owned and controlled by Canadians, whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

9. In regard to Canadian programming expenditures and expenditures on programs of national interest:
  - (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions of licence 4 and 6, respectively; in such case, the licensee shall expend in the next broadcast 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.
  - (b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.

- (c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming and programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions of licence 4 and 6.
10. The licensee may distribute separate regional programming in place of its national service to affiliated distribution undertakings, provided that the hours devoted to such regional programming do not exceed 10% of the licensee's quarterly program schedule.

The licensee must file separate logs for each region and that regional programming must be logged under Program Class "REG".

For the purposes of these conditions of licence:

"Rogers Media group" is defined as all of the conventional television stations and specialty Category A services that are operated and included in Rogers Media Inc.'s designated group.

The term "broadcast day" refers to the 24-hour period beginning at 6 a.m. each day, or any other period approved by the Commission.

The terms "broadcast day," "broadcast month," "broadcast year" and "evening broadcast period" shall have the same meanings as those set out in the *Television Broadcasting Regulations, 1987*.

For the purposes of conditions of licence 5, 6 and 7, "specialty services" excludes mainstream sports and news services and specialty Category B services with less than one million subscribers.

### **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.

### **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.

## Appendix 9 to Broadcasting Decision CRTC 2014-399

### Terms, conditions of licence, expectations and encouragements for the specialty Category B service Sportsnet World

#### Terms

The licence will expire 31 August 2016.

#### Conditions of licence

1. The licensee shall adhere to the conditions set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.
2. In regard to the nature of service:
  - (a) The licensee shall provide a national, English-language specialty Category B service devoted primarily to the coverage of soccer, cricket and rugby. Programming shall include exclusive international soccer matches from professional leagues and tournaments. The service shall also provide coverage of national Canadian teams, including junior programs, sports news, in-depth analysis or instructional programs.
  - (b) The licensee may draw programming 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
    - 5 (b) Informal education/Recreation and leisure
    - 6 (a) Professional sports  
(b) Amateur sports
    - 10 Game shows
    - 11 General entertainment and human interest
    - 12 Interstitials
    - 13 Public service announcements
    - 14 Infomercials, promotional and corporate videos
  - (c) Not more than 10% of all programming broadcast during the broadcast year shall be devoted to sports other than soccer, cricket and rugby.
  - (d) With the exception of soccer, cricket and rugby, not more than 5% of the broadcast year shall be devoted to live coverage of any one particular sport.

- (e) The licensee shall not dedicate any coverage to the following men's sports: ice hockey, basketball, baseball and North American-style football.

For the purposes of these conditions of licence, "broadcast day" refers to the 24-hour period beginning each day at 6 a.m. or any other period approved 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 Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.

### **Encouragements**

The standards encouragements applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.

## Appendix 10 to Broadcasting Decision CRTC 2014-399

### Terms, conditions of licence, expectations and encouragements for the specialty Category C service Sportsnet

#### Terms

The licence will expire 31 August 2016.

#### Conditions of licence

1. The licensee shall adhere to the conditions set out in Appendix 1 to *Conditions of licence for competitive Canadian specialty services operating in the genres of mainstream sports and national news – Implementation of the Accessibility Policy and other matters*, Broadcasting Regulatory Policy CRTC 2009-562-1, 18 June 2010, as amended from time to time, except for condition of licence 6, which shall be replaced by the following:

Consistent with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, as subsequently amended by the Commission, the licensee shall:

- (a) 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;
  - (b) 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
  - (c) 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.
2. In order to ensure that the licensee complies at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, 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.
  3. The licensee shall submit separate applications with the Commission by no later than **15 August 2014** to carry on a network licence and a temporary network licence with respect to its arrangement with the Canadian Broadcasting Corporation (CBC) for

the broadcast of the program “Hockey Night in Canada” on the CBC and on Rogers Media Inc.’s television undertakings.

For the purposes of these conditions of licence, “broadcast day” refers to the 24-hour period beginning at 6 a.m. each day or any other period approved by the Commission.

### **Expectations**

The standard expectations applicable to this licensee are set out in Appendix 1 to *Conditions of licence for competitive Canadian specialty services operating in the genres of mainstream sports and national news – Implementation of the Accessibility Policy and other matters*, Broadcasting Regulatory Policy CRTC 2009-562-1, 18 June 2010, as amended from time to time.

### **Encouragements**

The standard encouragements applicable to this licensee are set out in Appendix 1 to *Conditions of licence for competitive Canadian specialty services operating in the genres of mainstream sports and national news – Implementation of the Accessibility Policy and other matters*, Broadcasting Regulatory Policy CRTC 2009-562-1, 18 June 2010, as amended from time to time.

## **Appendix 11 to Broadcasting Decision CRTC 2014-399**

### **Terms, conditions of licence, expectations and encouragements for CFMT-DT Toronto (OMNI.1) and its transmitters in London and Ottawa**

#### **Terms**

The licence will expire 31 August 2016.

#### **Conditions of licence**

1. The licensee shall adhere to the conditions set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time, except for conditions of licence 11 and 12, which will not apply. In regard to condition of licence 8, the licensee shall meet this requirement by no later than the end of the licence term.
2. The licensee shall devote to the broadcast of ethnic programs:
  - (a) not less than 60% of the total number of hours broadcast monthly between 6 a.m. and midnight;
  - (b) not less than 50% of the total number of hours broadcast monthly between 6 p.m. and midnight; and
  - (c) not less than 75% of the total number of hours broadcast annually between 8 p.m. and 10 p.m.
3. The licensee shall devote a minimum of 50% of its programming each broadcast month to third-language programming.
4. The licensee shall broadcast ethnic programs directed toward a minimum of 20 distinct ethnic groups monthly.
5. The licensee shall broadcast ethnic programs in a minimum of 20 different languages monthly.
6. The licensee shall devote not more than 16% of its programming to programs in any one foreign language during each broadcast month.
7. The licensee shall devote to the broadcast of Canadian programs:
  - (a) not less than 55% of the total programming broadcast between 6 a.m. and midnight; and
  - (b) not less than 50% of the total programming broadcast between 6 p.m. and midnight.

8. In any market containing both an OMNI and a City television station, not more than 10% of all programming broadcast during each broadcast week shall be broadcast on both the OMNI and the City television stations.
9. In any market containing both an OMNI and a City television station, no third-language ethnic programming shall be broadcast on both the OMNI and the City television stations.
10. The licensee shall not solicit local advertising in London and in Ottawa, Ontario.
11. The licensee shall have in place an advisory council in each of Ontario, Alberta and British Columbia by no later than **30 November 2014**, and submit, by that same date, a report confirming the establishment of such council. Subsequently, the licensee shall submit a report once a year to the Commission by no later than the 30 November following the end of each broadcast year on the council's activities and accomplishments.

### **Expectations**

The standard expectations applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission expects the licensee to broadcast local programming on all of its OMNI television stations.

The Commission expects the licensee to maintain the production of local programming in its news bureaus located in Ottawa, Ontario.

### **Encouragements**

The standard encouragements applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission encourages the licensee to continue its ongoing commitment to work on solutions for making third-language programming more accessible and to caption third-language programming whenever possible.

## **Appendix 12 to Broadcasting Decision CRTC 2014-399**

### **Terms, conditions of licence, expectations and encouragements for CJMT-DT Toronto (OMNI.2) and its transmitters in London and Ottawa**

#### **Terms**

The licence will expire 31 August 2016.

#### **Conditions of licence**

1. The licensee shall adhere to the conditions set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time, except for conditions of licence 11 and 12, which will not apply. In regard to condition of licence 8, the licensee shall meet this requirement by no later than the end of the licence term.
2. The licensee shall devote to the broadcast of ethnic programs:
  - (a) not less than 60% of the total number of hours broadcast monthly between 6 a.m. and midnight;
  - (b) not less than 50% of the total number of hours broadcast monthly between 6 p.m. and midnight; and
  - (c) not less than 75% of the total number of hours broadcast annually between 8 p.m. and 10 p.m.
3. The licensee shall devote a minimum of 50% of its programming each broadcast month to third-language programming.
4. The licensee shall broadcast ethnic programs directed toward a minimum of 20 distinct ethnic groups monthly. None of the 20 ethnic groups shall have been served by CFMT-DT Toronto during the same broadcast year.
5. The licensee shall broadcast ethnic programs in a minimum of 20 different languages monthly. The licensee shall not broadcast ethnic programs in a foreign language broadcast by CFMT-DT Toronto during the same broadcast year.
6. The licensee shall devote not more than 16% of its programming to programs in any one foreign language during each broadcast month.
7. The licensee shall devote to the broadcast of Canadian programs:
  - (a) not less than 55% of the total programming broadcast between 6 a.m. and midnight; and

- (b) not less than 50% of the total programming broadcast between 6 p.m. and midnight.
- 8. In any market containing both an OMNI and a City television station, no more than 10% of all programming broadcast during each broadcast week shall be broadcast on both the OMNI and the City television stations.
- 9. In any market containing both an OMNI and a City television station, no third-language ethnic programming shall be broadcast on both the OMNI and the City television stations.
- 10. The licensee shall not solicit local advertising in London and in Ottawa, Ontario.
- 11. The licensee shall have in place an advisory council in each of Ontario, Alberta and in British Columbia by no later than **30 November 2014**, and submit, by that same date, a report confirming the establishment of such council. Subsequently, the licensee shall submit a report once a year to the Commission by no later than the 30 November following each broadcast year on the council's activities and accomplishments.

### **Expectations**

The standard expectations applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission expects the licensee to broadcast local programming on all of its OMNI television stations.

The Commission expects the licensee to maintain the production of local programming in its news bureaus located in Ottawa, Ontario.

### **Encouragements**

The standard encouragements applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission encourages the licensee to continue its ongoing commitment to work on solutions for making third-language programming more accessible and to caption third-language programming whenever possible.

## **Appendix 13 to Broadcasting Decision CRTC 2014-399**

### **Terms, conditions of licence, expectations and encouragements for CJCO-DT Calgary (OMNI AB)**

#### **Terms**

The licence will expire 31 August 2016.

#### **Conditions of licence**

1. The licensee shall adhere to the conditions set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time, except for conditions of licence 11 and 12, which will not apply. In regard to condition of licence 8, the licensee shall meet this requirement by no later than the end of the licence term.
2. The licensee shall devote to the broadcast of ethnic programs:
  - (a) not less than 60% of the total number of hours broadcast monthly between 6 a.m. and midnight;
  - (b) not less than 50% of the total number of hours broadcast monthly between 6 p.m. and midnight; and
  - (c) not less than 75% of the total number of hours broadcast annually between 8 p.m. and 10 p.m.
3. The licensee shall devote a minimum of 50% of its programming each broadcast month to third-language programming.
4. The licensee shall broadcast ethnic programs directed toward a minimum of 20 distinct ethnic groups monthly.
5. The licensee shall broadcast ethnic programs in a minimum of 20 different languages monthly.
6. The licensee shall devote not more than 16% of its programming to programs in any one foreign language during each broadcast month.
7. The licensee shall devote to the broadcast of Canadian programs:
  - (a) not less than 55% of the total programming broadcast between 6 a.m. and midnight; and
  - (b) not less than 50% of the total programming broadcast between 6 p.m. and midnight.

8. The licensee shall broadcast not less than three and a half hours of Canadian local programming in each broadcast week.
9. In any market containing both an OMNI and a City television station, no more than 10% of all programming broadcast during each broadcast week shall be broadcast on both the OMNI and the City television stations.
10. In any market containing both an OMNI and a City television station, no third-language ethnic programming shall be broadcast on both the OMNI and the City television stations.
11. The licensee shall have in place an advisory council in each of Ontario, Alberta and in British Columbia by no later than **30 November 2014**, and submit, by that same date, a report confirming the establishment of such council. Subsequently, the licensee shall submit a report once a year to the Commission by no later than the 30 November following each broadcast year on the council's activities and accomplishments.

### **Expectations**

The standard expectations applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission expects the licensee to broadcast local programming on all of its OMNI television stations.

### **Encouragements**

The standard encouragements applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission encourages the licensee to continue its ongoing commitment to work on solutions for making third-language programming more accessible and to caption third-language programming whenever possible.

## **Appendix 14 to Broadcasting Decision CRTC 2014-399**

### **Terms, conditions of licence, expectations and encouragements for CJEO-DT Edmonton (OMNI AB)**

#### **Terms**

The licence will expire 31 August 2016.

#### **Conditions of licence**

1. The licensee shall adhere to the conditions set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time, except for conditions of licence 11 and 12, which will not apply. In regard to condition of licence 8, the licensee shall meet this requirement by no later than the end of the licence term.
2. The licensee shall devote to the broadcast of ethnic programs:
  - (a) not less than 60% of the total number of hours broadcast monthly between 6 a.m. and midnight;
  - (b) not less than 50% of the total number of hours broadcast monthly between 6 p.m. and midnight; and
  - (c) not less than 75% of the total number of hours broadcast annually between 8 p.m. and 10 p.m.
3. The licensee shall devote a minimum of 50% of its programming each broadcast month to third-language programming.
4. The licensee shall broadcast ethnic programs directed toward a minimum of 20 distinct ethnic groups monthly.
5. The licensee shall broadcast ethnic programs in a minimum of 20 different languages monthly.
6. The licensee shall devote not more than 16% of its programming to programs in any one foreign language during each broadcast month.
7. The licensee shall devote to the broadcast of Canadian programs:
  - (a) not less than 55% of the total programming broadcast between 6 a.m. and midnight; and
  - (b) not less than 50% of the total programming broadcast between 6 p.m. and midnight.

8. The licensee shall broadcast not less than one and a half hours of Canadian local programming in each broadcast week.
9. In any market containing both an OMNI and a City television station, no more than 10% of all programming broadcast during each broadcast week shall be broadcast on both the OMNI and the City television stations.
10. In any market containing both an OMNI and a City television station, no third-language ethnic programming shall be broadcast on both the OMNI and the City television stations.
11. The licensee shall have in place an advisory council in each of Ontario, Alberta and in British Columbia by no later than **30 November 2014**, and submit, by that same date, a report confirming the establishment of such council. Subsequently, the licensee shall submit a report once a year to the Commission by no later than the 30 November following each broadcast year on the council's activities and accomplishments.

### **Expectations**

The standard expectations applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission expects the licensee to broadcast local programming on all of its OMNI television stations.

### **Encouragements**

The standard encouragements applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission encourages the licensee to continue its ongoing commitment to work on solutions for making third-language programming more accessible and to caption third-language programming whenever possible.

## **Appendix 15 to Broadcasting Decision CRTC 2014-399**

### **Terms, conditions of licence, expectations and encouragements for CHNM-DT Vancouver and its transmitter in Victoria (OMNI BC)**

#### **Terms**

The licence will expire 31 August 2016.

#### **Conditions of licence**

1. The licensee shall adhere to the conditions set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time, except for conditions of licence 11 and 12, which will not apply. In regard to condition of licence 8, the licensee shall meet this requirement by no later than the end of the licence term.
2. The licensee shall devote to the broadcast of ethnic programs:
  - (a) not less than 60% of the total number of hours broadcast monthly between 6 a.m. and midnight;
  - (b) not less than 50% of the total number of hours broadcast monthly between 6 p.m. and midnight; and
  - (c) not less than 75% of the total number of hours broadcast annually between 8 p.m. and 10 p.m.
3. The licensee shall devote a minimum of 50% of its programming each broadcast month to third-language programming.
4. The licensee shall broadcast ethnic programs directed toward a minimum of 20 distinct ethnic groups monthly.
5. The licensee shall broadcast ethnic programs in a minimum of 20 different languages monthly.
6. The licensee shall devote not more than 16% of its programming to programs in any one foreign language during each broadcast month.
7. The licensee shall devote to the broadcast of Canadian programs:
  - (a) not less than 55% of the total programming broadcast between 6 a.m. and midnight; and
  - (b) not less than 50% of the total programming broadcast between 6 p.m. and midnight.

8. In any market containing both an OMNI and a City television station, no more than 10% of all programming broadcast during each broadcast week shall be broadcast on both the OMNI and the City television stations.
9. In any market containing both an OMNI and a City television station, no third-language ethnic programming shall be broadcast on both the OMNI and the City television stations.
10. The licensee shall not solicit local advertising in Victoria, British Columbia.
11. The licensee shall have in place an advisory council in each of Ontario, Alberta and in British Columbia by no later than **30 November 2014**, and submit, by that same date, a report confirming the establishment of such council. Subsequently, the licensee shall submit a report once a year to the Commission by no later than the 30 November following each broadcast year on the council's activities and accomplishments.
12. The licensee shall expend, by 31 August 2015, the following amounts towards the fulfilment of its tangible benefits commitments:
  - Independent Producers Initiative – \$4 million (initial amount);
  - Victoria News Bureau – \$1 million (initial amount); and
  - University of British Columbia Film – \$1 million (initial amount).
13. The licensee shall file with the Commission, concurrently with the annual return, annual reports setting out the details of all expenditures made under condition of licence 12.

### **Expectations**

The standard expectations applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission expects the licensee to broadcast local programming on all of its OMNI television stations.

The Commission expects the licensee to maintain the production of local programming in its news bureaus located in Victoria, British Columbia.

### **Encouragements**

The standard encouragements applicable to this licensee are set out in *Standard conditions of licence, expectations and encouragements for conventional television*

*stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011, as amended from time to time.

The Commission encourages the licensee to continue its ongoing commitment to work on solutions for making third-language programming more accessible and to caption third-language programming whenever possible.