



Broadcasting Decision CRTC 2015-405

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Reference: 2015-103

Ottawa, 27 August 2015

Ontario Educational Communications Authority
Province of Ontario

Application 2015-0043-9, received 16 January 2015

TVO – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language educational television station TVO (CICA-DT Toronto and its transmitters) from 1 September 2015 to 31 August 2022.*

Introduction

1. Ontario Educational Communications Authority filed an application to renew the broadcasting licence for the English-language educational television station TVO (CICA-DT Toronto and its transmitters), which expires 31 August 2015.
2. TVO provides a valuable public service as the educational broadcaster for the province of Ontario and a strong independent voice in a highly concentrated media landscape and reflects Ontario's diversity of cultures and viewpoints. Some of its programming is tied to the Ontario school curriculum and focuses on educational content for early learners and young children. This programming, as well as its long-form documentaries and in-depth current affairs programming, fulfills an essential role in the broadcasting system for the benefit of all Canadians.
3. Given the mandate and educational role of TVO, as well as its focus on youth and children's programming, the licensee stated that it would accept a condition of licence requiring that it maintain its current Canadian programming exhibition requirements of 55% for the broadcast year and 50% for the evening broadcast period.

Interventions

4. The Commission received a number of interventions in support of this application, as well as interventions commenting on the application. The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number set out above.
5. In their interventions, Shawn Colley and Michael Vormittag requested that TVO include TFO as a sub-channel on its Ontario transmitters.

6. Steven James May and Jeff May submitted that TVO must increase the effective radiated power of the CICO-DT-92 Cloyne transmitter and upgrade the antenna at the transmitter site to better serve the Addington Highlands area. Steven James May also indicated that TVO must reveal its plan to maintain this site in light of the proposed 600 MHz reallocation in Canada.
7. In addition, Steven James May submitted that TVO should be required to maintain nine digital over-the-air (OTA) television transmitters across Ontario for the duration of the new licence term. Along with Mr. Vormittag, he proposed that TVO multiplex its digital OTA signal via non-TVO digital transmitters for markets¹ that previously benefitted from analog TVO transmitters.
8. Finally, Mr. Vormittag submitted that as an educational and public broadcaster, TVO requires a mechanism to clarify factually incorrect or misleading comments made on its programs, similar to that used by newspapers. He specifically referred to an episode of the program *The Agenda*, broadcast on 20 March 2015. During this episode, host Steve Paikin insinuated that antenna users are doing something illegal, which is untrue, in Mr. Vormittag's view. Mr. Vormittag argued that Mr. Paikin and TVO made no attempt to clarify these remarks and that Mr. Paikin defended his position on Twitter.

Reply

9. In reply to the request to include TFO as a sub-channel, TVO indicated that it is not in a position to comment given that TFO is a separate educational television service operated by the Office des télécommunications éducatives de langue française de l'Ontario, which has its own board of directors, management and budgets.
10. With respect to the issue raised regarding CICO-DT-92 Cloyne, TVO replied that the signal loss from that transmitter relates to the use of digital transmission facilities and that it cannot expend further resources in this area. TVO also indicated that it presently does not have enough information to develop a plan for this transmitter and will not have such information until it has the results of the Department of Industry's consultation on repurposing the 600 MHz band, which will include the new channel allotment plan for OTA.
11. TVO stated that it could not commit to the use of the nine digital OTA transmitters since any use or deployment would be subject to the Commission's approval. It added that OTA transmission is only one of several means of delivering educational and current affairs content and that it must allocate its limited financial resources to make content available on as many platforms as possible. TVO also stated that multiplexing would require significant capital investment and would increase its operating costs.

¹ Namely, the markets of Bancroft, Hawkesbury, Huntsville, Kenora, Kingston, North Bay, Owen Sound, Parry Sound, Pembroke, Penetanguishene, Peterborough, Sault Ste. Marie, Sudbury and Timmins.

12. In regard to Mr. Vormittag's complaint, TVO indicated that Mr. Paikin clarified his comment in the context of a Twitter conversation, and that the other participant in the Twitter conversation thanked Mr. Paikin for clarifying the matter. TVO is therefore of the view that no further measures are necessary. TVO also stated that its mechanism to correct errors functions in accordance with the magnitude of an error. While a significant error would be addressed on a subsequent broadcast, its preferred method is to provide the correction on its website, where the context of the issue can be re-established and the corrected information is readily available for reference.

Commission's analysis and decisions

13. With respect to the request that TFO be offered on a sub-channel of TVO's transmitters, decisions regarding transmission or delivery of programming are financial and operational in nature and are generally at the licensee's discretion to make, subject to the approval of Industry Canada and the Commission. Concerning the digital OTA transmitters and the specific request regarding the Cloyne transmitter, although the Commission authorizes educational and television services to broadcast their programming, it generally does not require licensees to operate specific stations or transmitters.
14. In regard to Mr. Vormittag's complaint, while Mr. Paikin may have misspoken in the aforementioned episode of *The Agenda*, the comment was not so egregious as to warrant on-air retraction. The Commission considers that the matter was handled adequately by the licensee and does not require further action.

Programming requirements

15. Canadian programming exhibition requirements for conventional television stations are set out in the *Television Broadcasting Regulations, 1987* (the Regulations). In Broadcasting Regulatory Policy 2015-86, the Commission determined that it will maintain, for conventional television stations, Canadian programming exhibition requirements for the evening broadcast period only, which is generally the peak viewing period. To make this change, the Commission will need to amend the Regulations during TVO's new licence term.
16. In Broadcasting Regulatory Policy 2015-86, the Commission also recognized that there may be services, such as those offering children's and youth programming, that will require a more targeted approach to exhibition requirements. TVO stated that approximately 70% of its schedule is dedicated to children's and youth programming broadcast mainly during the 6 a.m. to 7 p.m. portion of the broadcast day. TVO's exhibition requirements should therefore take into account the nature of the programming being broadcast and its target audience: children's programming during the daytime when children are watching, and documentaries and current affairs programming in the evening broadcast period when adults are the viewing audience.
17. The Commission considers that TVO's focus on children's and public interest programming makes TVO unique. Consistent with the determinations set out in Broadcasting Regulatory Policy 2015-86, TVO requires a more targeted approach to

exhibition requirements. In this regard, the Commission will impose conditions of licence requiring TVO to maintain a minimum Canadian programming exhibition requirement of 55% for the broadcast year and 50% for the evening broadcast period, which are consistent with the levels currently set out in the Regulations. **Conditions of licence** to this effect are set out in the appendix to this decision.

18. Further, in Broadcasting Regulatory Policy 2015-104, the Commission stated that it will expect broadcasters, at the time of their next licence renewals, to ensure that when programming with closed captioning on traditional platforms is made available on non-linear online platforms, the closed captioning is to be included. An expectation to this effect is set out in the appendix to this decision.
19. Finally, TVO confirmed that it would adhere to the standard requirements for conventional television stations set out in Broadcasting Regulatory Policy 2011-442, with the exception of certain conditions related to local programming requirements, as well as the Commission's expectation on local presence. Local programming requirements are generally imposed on private television stations that operate as local services. In this case, such impositions would be inconsistent with the province-wide mandate of TVO. As a result, the Commission grants TVO an exception to conditions of licence 11 and 12, which pertain to local programming, as set out in Broadcasting Regulatory Policy 2011-442.

Conclusion

20. In light of the above, the Commission **renews** the broadcasting licence for the English-language educational television programming undertaking TVO (CICA-DT Toronto and its transmitters CICO-DT-9 Thunder Bay, CICO-DT-18 London, CICO-DT-24 Ottawa, CICO-DT-28 Kitchener, CICO-DT-32 Windsor, CICO-DT-53 Belleville, CICO-DT-59 Chatham and CICO-DT-92 Cloyne). The licensee shall adhere to the **conditions** set out in the broadcasting licence for the undertaking as well as the **conditions of licence** set out in the appendix to this decision.

Secretary General

Related documents

- *Let's Talk TV: Navigating the Road Ahead - Making informed choices about television providers and improving accessibility to television programming*, Broadcasting Regulatory Policy CRTC 2015-104, 26 March 2015
- *Let's Talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *Standard conditions of licence, expectations and encouragements for conventional television stations*, Broadcasting Regulatory Policy CRTC 2011-442, 27 July 2011

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

Appendix to Broadcasting Decision CRTC 2015-405

Conditions of licence, expectations and encouragements for the English-language educational television station TVO (CICA-DT Toronto, Ontario and its transmitters CICO-DT-9 Thunder Bay, CICO-DT-18 London, CICO-DT-24 Ottawa, CICO-DT-28 Kitchener, CICO-DT-32 Windsor, CICO-DT-53 Belleville, CICO-DT-59 Chatham and CICO-DT-92 Cloyne)

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, with the exception of conditions of licence 11 and 12.
2. The licensee shall file an annual report addressing the provision of closed captioning on non-linear platforms by 30 November of each year for the broadcast year ending the previous 31 August, in accordance with other requirements of the annual return.
3. The licensee shall devote at least than 55% of the broadcast year and of any six-month period specified in a condition of licence to the broadcast of Canadian programs.
4. The licensee shall devote at least 50% of the evening broadcast period to the broadcast of Canadian programs.

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. The expectation on maintaining a local presence does not apply to this licensee.

The Commission expects the licensee to include closed captioning on programming made available on non-linear platforms when such programming includes closed captioning on traditional platforms.

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.