



Broadcasting Decision CRTC 2016-13

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Reference: Part 1 application posted on 22 July 2015

Ottawa, 18 January 2016

YTV Canada, Inc.
Across Canada

Application 2015-0726-1

YTV – Licence amendments

*The Commission **approves** an application to delete certain nature of service conditions of licence for the national, English-language specialty Category A service YTV, and to add a condition of licence limiting the amount of live professional sports programming that it may broadcast.*

*The Commission **denies** the applicant's request to delete the service's condition of licence relating to the broadcast of programs produced by independent production companies.*

Background

1. In Broadcasting Regulatory Policy 2015-86, the Commission stated that it would eliminate its genre exclusivity policy, which limited programming services to offering certain types of programming (that is, a “nature of service”) and precluded other services from offering that programming. Consequently, it no longer enforces conditions of licence relating to nature of service, with certain exceptions, such as the condition of licence relating to the broadcast of live professional sports programming by services other than mainstream sports services.
2. It further stated that licensees must provide the Commission with a name and a brief description of the service, to be listed on the Commission's website, and update this information any time it changes. This will allow both Canadians and the Commission to continue having basic information about the discretionary services in operation.

Application

3. Corus Entertainment Television Ltd. (Corus), on behalf of YTV Canada, Inc., filed an application relating to the national, English-language specialty Category A service

YTV. Corus requested the deletion of the following nature of service conditions of licence:¹

2. (a) The licensee shall provide a national English-language specialty Category A service targeted to children, youth and their families. In each broadcast year, a minimum of 78% of the programming distributed on the service shall have as its target audience children and youth up to 17 years of age, and a maximum of 22% shall have as its target audience families. In each broadcast year, a maximum of 15% of the programming distributed on the service shall have as its target audience children up to 6 years of age.
 - (c) The licensee shall devote 100% of the programs in the drama category distributed in the evening broadcast period to programs of particular interest to children, youth and their families through the use of a protagonist that is developed with children, youth or families in mind, examples of which would include an animated character, super hero, animal, child or youth.
 - (d) Programming distributed by the licensee with families as the target audience shall not include programs from the following categories set out in item 6 of Schedule I of the *Specialty Services Regulations, 1990*: News (category 1), Analysis and interpretation (category 2(a)), Sports (category 6) or Music video clips (category 8(b)).
 - (e) The licensee shall devote no more than 5% of the broadcast year to Music video clips (category 8(b)).
 - (f) The licensee shall devote no more than 10% of the broadcast year to feature films (category 7(d)).
4. Condition of licence 2.(b), which reads as follows, would be retained:

The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
5. Corus also requested the addition of a condition of licence that would limit the amount of live professional sports programming that could be broadcast on the service to 10% of the programming broadcast each broadcast month.
6. Finally, the applicant requested the deletion of the following condition of licence:
 13. In each broadcast year, the programming distributed by the licensee shall include a minimum of 90 hours of original, first-run Canadian programs that have been acquired from an independent production company by YTV, either through co-production or licensing arrangements.

¹ YTV's current conditions of licence are set out in Appendix 7 to Broadcasting Decision 2011-446.

7. Corus stated that the above requests are consistent with the Commission's decisions stemming from its elimination of the genre exclusivity policy.
8. Pursuant to Broadcasting Regulatory Policy 2015-86, Corus provided the following description for YTV:

The licensee shall provide a national English-language discretionary service targeted to children, youth and families including live-action comedies, drama, reality, movies and animation.

Interventions and reply

9. The Commission received interventions in opposition to this application from the Canadian Media Production Association (CMPA), the Forum for Research and Policy in Communications (FRPC), the Conseil provincial du secteur des communications du Syndicat canadien de la fonction publique, the Writers Guild of Canada and On Screen Manitoba. Corus replied collectively to the interventions. 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 provided above.
10. None of the interveners opposed the applicant's requests regarding YTV's nature of service conditions of licence.
11. All of the interveners opposed the deletion of the service's condition of licence relating to programming produced by independent production companies (IPCs). They argued that this condition of licence is not related to the genre exclusivity policy and thus to the nature of service conditions of licence affected by the elimination of that policy. The CMPA submitted that Corus's request is inconsistent with the *Broadcasting Act's* (the Act) policy objective regarding independent production and with the Commission's rationale for establishing and maintaining the condition of licence. According to the FRPC, the applicant has not established that the condition of licence imposes any burden on YTV. It further stated that the service's strong financial performance does not support Corus's request.
12. Finally, the interveners proposed that Corus's request should be considered only when the broadcasting licence for YTV comes up for renewal in 2017, when standard conditions of licence for discretionary and basic services will come into effect, so that it can be properly addressed by Canadians and considered by the Commission.
13. In its reply, Corus submitted that its request to delete the IPC condition of licence is completely consistent with Broadcasting Regulatory Policy 2015-86. In its view, this condition of licence is clearly tied to YTV's nature of service and not to independent production, given that it was originally established to create an inventory of English-language children's and youth programming in Canada.
14. The applicant further submitted that to sustain audiences it needs to enable shows that rate well domestically and sell well internationally. It stated that it needs to choose quality as the prime motivator for the selection of series in which it invests and not

continue exhibition requirements that were created in a distant past for reasons specific to that time.

15. Corus also expressed concern over the possibility that a new service targeting YTV's children and youth audiences could be launched under an exemption order, given the open market environment for Canadian discretionary (i.e., pay and specialty) services. In its view, the exemption order would not require such a new service to offer any level of original content produced by the independent sector.
16. Corus did not comment on the proposal that its request should be considered only when the broadcasting licence for YTV comes up for renewal in 2017.

Commission's analysis and decisions

17. In regard to YTV's nature of service conditions of licence, the Commission finds that the amendments, as proposed by Corus, are consistent with Broadcasting Regulatory Policy 2015-86.
18. With respect to the IPC condition of licence, section 3(1)(i)(v) of the Act sets out that "the programming provided by the Canadian broadcasting system should [...] include a significant contribution from the Canadian independent production sector." In Broadcasting Decision 2011-441, which implemented the group-based licensing policy for large private English-language ownership groups (such as Corus), the Commission determined that it was appropriate to retain existing requirements relating to independent production for specialty services as those requirements contribute to the ongoing support of independently produced content in categories other than drama, documentaries and award shows. In regard to the IPC condition of licence specifically, it has never formed part of the nature of service condition of licence of any specialty service, and has never been identified as being related to the nature of service. As such, the Commission considers that the IPC condition of licence is enforceable independently of the revised nature of service description.
19. Although Broadcasting Regulatory Policy 2015-86, through its elimination of genre exclusivity, has introduced some regulatory parity between Category A and Category B services (the latter of which have not had the IPC condition of licence imposed), other key changes stemming from that policy will be considered and implemented at licence renewal (for YTV, in 2017). Accordingly, Category A services such as YTV, unlike Category B services (including exempt services, serving fewer than 200,000 subscribers²), will continue to benefit from mandatory distribution until their next licence renewal. In the Commission's view, it would therefore be more appropriate to examine any other requests relating to conditions of licence, including the IPC condition of licence, at that time.
20. In light of the above, the Commission **approves** the request by Corus Entertainment Inc., on behalf of YTV Canada, Inc., to amend the broadcasting licence

² See Broadcasting Order 2012-689.

for YTV by deleting conditions of licence 2.(a) and 2.(c) through 2.(f), and by adding the following **condition of licence**:

The licensee shall devote not more than 10% of the programming broadcast during the broadcast month to live professional sports programming, which falls under program category 6(a) Professional sports.

21. The Commission **denies** the request to delete YTV's condition of licence 13, relating to the broadcast of programs produced by IPCs.

Secretary General

Related documents

- *Let's Talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *New exemption order respecting certain programming undertakings that would otherwise be eligible to be operated as Category B services, and amendments to the Exemption order respecting certain third-language television services*, Broadcasting Order CRTC 2012-689, 19 December 2012
- *Corus Entertainment Inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2011-446, 27 July 2011
- *Group-based licence renewals for English-language television groups – Introductory decision*, Broadcasting Decision CRTC 2011-441, 27 July 2011

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