Canadian Radio-television and Telecommunications Commission | Conseil de la radiodiffusion et des télécommunications canadiennes

Broadcasting Decision CRTC 2018-228

PDF version

Reference: Part 1 licence renewal applications posted on 27 November 2017

Ottawa, 5 July 2018

DHX Television Ltd.
Across Canada

Public record for these applications: 2017-0821-5, 2017-0822-3 and 2017-0823-1

Family Channel, Family CHRGD and Télémagino – Licence renewals

*The Commission **renews** the broadcasting licences for the English-language discretionary services Family Channel and Family CHRGD, as well as the French-language discretionary service Télémagino, from 1 September 2018 to 31 August 2023.*

Applications

1. DHX Television Ltd. (DHX) filed applications to renew the broadcasting licences for the English-language discretionary services Family Channel and its multiplex Family Jr. (formerly Family) and Family CHRGD (formerly Disney XD), as well as the French-language discretionary service Télémagino (formerly Disney Junior). The current licences expire 31 August 2018.

2. DHX confirmed that its services would adhere to the standard requirements for discretionary services set out in Appendix 2 of Broadcasting Regulatory Policy 2016-436, with the exception of the requirement pertaining to described video.

3. The Commission received interventions supporting and commenting on each of the applications.

Commission's analysis and decisions

4. After examining the public record for these applications in light of applicable regulations and policies, the Commission considers that it must address the following issues:

    - applying the group-based licensing approach;
    - Canadian programming expenditures (CPE);
    - expenditures on programs of national interest (PNI);

- independent production expenditures;
- request for an exception to standard requirements for described video; and
- non-compliance issues.

Applying the group-based licensing approach

5. DHX requested that its licences be renewed under the group-based approach such that the three services form a bilingual group with common requirements.

Interventions

6. The Association québécoise de la production médiatique (AQPM) supported the creation of a bilingual DHX group, while On Screen Manitoba deferred to the Commission’s expertise on the matter.

7. The Canadian Media Producers Association (CMPA) noted that it is not the Commission’s practice to allow bilingual groups and suggested different requirements for CPE and PNI in the case of an approval or denial of this proposal.

8. The Writers Guild of Canada (WGC) objected to the proposal, stating that licence groups have become much more clearly defined along official language lines, consistent with section 3(1)(c) of the *Broadcasting Act* (the Act).

DHX’s reply

9. DHX argued that group-based licensing would allow the services to better capture the synergies that arise from a group that exclusively operates in the children’s programming genre.

Commission’s analysis

10. In Broadcasting Regulatory Policy 2010-167, the Commission stated that it would only consider an ownership group’s services operating in the same language for the purposes of determining which services should be included in the designated group. Despite this general approach, the Commission approved the creation of the former Astral designated group as a bilingual group in Broadcasting Decision 2012-241. At the time, the Commission considered that the fact that Astral’s services had to meet comparable requirements in both linguistic markets made it appropriate to consider those services as a single group in order to enable it to benefit from the flexibility of the group-based approach. The Astral bilingual group was dismantled when the services comprising the group were acquired by Bell, Corus, Groupe V and DHX.

11. In Broadcasting Regulatory Policy 2015-86, the Commission reaffirmed its initial position, stating that for those groups operating English- and French-language services, each language group will be treated separately and may have distinct requirements. Consequently, in the recent group-based renewals, the Commission

approved the creation of separate English- and French-language groups for Bell and for Corus.

12. In this case, the Commission considers that the fact that all of DHX's services are discretionary services related to children's programming provides some justification for allowing the flexibility of the group-based licensing approach, since animated programming produced for any of these services may be shared between the services in any case. Also, as an independent group, DHX has limited access to other synergies that would support its creation of compelling Canadian content in the children's and youth programming category, which is in decline.[1] For these reasons, the Commission is of the view that the group-based approach would be appropriate for all of DHX's services.

13. Moreover, unlike Bell and Corus, DHX is not associated with a vertically integrated distribution entity, nor does it operate conventional television stations. In addition, while it is possible that the group-based approach could allow certain programs such as animation programs to be produced for the two markets simultaneously for broadcast on both Télémagino and an English-language service, the Commission is of the view that there is not a significant risk of an inordinate level of expenditures being transferred from one linguistic market to the other due to the proposed group's small size and in particular Télémagino's small size. On the contrary, group licensing could help DHX support original productions for Télémagino as it could benefit from resources from the whole group.

14. Finally, as in the case of the former bilingual Astral group, the DHX services operating as a group would be obligated to meet comparable CPE and PNI requirements in both linguistic markets as Family CHRGD and Télémagino, which currently have no such requirements, would have to contribute to group requirements along with Family Channel.

15. In light of all the above, the Commission considers it appropriate to grant DHX the flexibility to operate its three services as a single bilingual group.

Canadian programming expenditures

16. DHX requested that its group CPE requirement be set at 20% of previous broadcast year's revenues. It also requested a condition of licence granting a 25% credit for productions made by official language minority community (OLMC) producers and a 50% credit for productions made by Indigenous producers, as in the case of the larger broadcast groups.

17. DHX submitted that the 20% CPE level would reflect historical expenditures for all of the services since DHX acquired them in 2014, once the expenditures related to

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[1] *Profile 2017: Economic Report on the Screen-based Media Production Industry in Canada*, Exhibit 3 - 2 Volume of Canadian production by genre and market.

tangible benefits are removed. It stated that it intended to maintain this level, consistent with Broadcasting Regulatory Policy 2015-86.

Interventions

18. Interveners proposed group CPE contribution levels ranging from 20% to 30%, as follows: the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) proposed a CPE requirement of 25% or 3% higher than Family Channel’s current requirement; the AQPM proposed a 30% CPE requirement based on the recent Commission decision relating to the Corus group; and the CMPA and the WGC agreed with DHX’s proposal for a 20% CPE based on historical expenditures.

19. The AQPM and the Table de concertation de l’industrie du cinéma et de la télévision de la Capitale-Nationale (Table de concertation) asked that the Commission impose a requirement that at least 1.8% of previous year revenues of the group be directed to French-language CPE.

DHX’s reply

20. DHX noted that the CMPA and the WGC supported the principle that its CPE requirements should be based on historical spending. DHX disagreed with the CPE levels proposed by ACTRA and the AQPM, noting that there is no connection between the Corus group and its services. DHX added that the 30% CPE requirement established for the large broadcast groups was meant to reflect their historical spending on Canadian programming across their large stables of conventional and discretionary television services.

21. Regarding the request by the AQPM and the Table de concertation for a minimum percentage of the group’s CPE to be directed to French-language programming, DHX replied that it did not believe that such a requirement was necessary or helpful for Télémagino. DHX added that, unlike the Corus Teletoon/Télétoon service upon which a similar measure was imposed, its services do not raise concerns relating to shared feeds and disproportional sizes.

Commission’s analysis

22. Since the elimination of genre exclusivity announced in Broadcasting Regulatory Policy 2015-86, discretionary services are no longer tied to a specific type of programming. Further, all of the discretionary services within a designated group are subject to standardized requirements. Accordingly, the Commission considers that applying the same CPE requirement to all services within the DHX group is appropriate and would be consistent with the Commission’s policy.

23. The Commission notes that DHX’s proposal for a 20% group CPE requirement represents a slight increase compared to its historical expenditures, which amounted to about 19% once expenditures on tangible benefits are removed. In addition, this level would be equivalent to maintaining the requirement for Family Channel and imposing a 10% requirement on Family CHRGD and Télémagino.

24. As noted above, the Commission is of the view that there is not a significant risk of an inordinate level of expenditures being transferred from one linguistic market to the other due to the proposed group's small size and in particular Télémagino's small size. As such, measures that would require DHX to direct a minimum percentage of the group's CPE to French-language programming is not required. However, to ensure that the flexibility offered by the creation of the bilingual group does not unduly disrupt the existing balance between the two linguistic markets, the Commission will monitor the allocation of CPE between the English- and French-language services over the licence term and will assess the extent of these allocations at DHX's next licence renewal.

25. In light of all the above, the Commission is of the view that a 20% CPE requirement for the group is appropriate. Further, the Commission considers that the requested CPE credits for OLMC and Indigenous productions, which were granted in the last renewal to large broadcast groups, represent positive measures to foster the access of under-represented groups to the broadcasting system. Accordingly, in the appendix to this decision, the Commission has set out **conditions of licence** reflecting these determinations.

Programs of national interest

26. DHX asked that the Commission set the PNI expenditure requirement for the group at 10% of the previous broadcast year's revenues. Currently, Family Channel has a PNI expenditure requirement of 16%, while Family CHRGD and Télémagino have no such requirement. DHX argued that a PNI expenditure requirement for the group higher than 10% would put its services at a major disadvantage relative to their larger integrated competitors, who were granted lower PNI requirements at their last renewals.

27. Finally, DHX expressed a desire to experiment with programming in genres other than drama and stated that maintaining the current PNI expenditure requirement for Family Channel would inhibit this plan. DHX submitted that this would be inconsistent with the Commission's policy as it recently removed programming genre restrictions to allow discretionary services to develop new, innovative types and genres of programming.

Interventions

28. ACTRA submitted that based on the current requirement for Family Channel, the proposed 10% PNI expenditure requirement would be inappropriate. It proposed a requirement of 13.5% based on the fact that this is the level being considered for the independent Blue Ant group.

29. The CMPA argued that the DHX proposal would represent a 6% decrease in PNI spending for Family Channel. The CMPA and the WGC submitted that the average PNI for all three DHX services is 14.9% and proposed a 15% PNI expenditure requirement for the group.

30. Finally, noting that the majority of DHX's activity is in the English-language market, the Table de concertation expressed concern that this would create a temptation to close caption and translate English-language content into French instead of producing original French-language programming, which would have a detrimental effect on the French-language market.

DHX's reply

31. DHX noted that it would be the first time that Family CHRGD and Télémagino would be subject to a PNI expenditure requirement. As a result, DHX argued that Family Channel's PNI expenditures would not drop a net 6% as suggested by the CMPA since these services would have to produce more PNI. DHX argued that this would put Family Channel at a 12.3% PNI expenditure level in real dollar terms.

32. DHX added that since PNI is a subcategory of CPE, the proposed 10% PNI expenditure requirement would account for half of all Canadian content it broadcasts, while virtually all of its CPE would have to be directed to PNI in the event of the 15% PNI requirement proposed by the CMPA and the WGC.

Commission's analysis

33. The Commission notes that ACTRA's proposal for a 13.5% PNI expenditure requirement is based on the premise that the Commission should apply the requirements it has imposed on the Blue Ant designated group on DHX since both sets of services belong to independent broadcasters and would be regulated under the group-based approach. However, the Commission considers that the circumstances of each of the groups is different. Specifically, Blue Ant operates a group composed of eight diversely programmed services, while DHX would operate a much smaller bilingual group of three services focused on children's programming. Further, as Télémagino and Family Jr, and to a lesser extent Family Channel and Family CHRGD, rely heavily on animation, which falls into a PNI category, PNI comprise a significant part of the services' programming.

34. With respect to the PNI expenditure levels calculated by the CMPA and the WGC, these levels include both the PNI expenditures made directly by the services and the incremental PNI spending required as part of the tangible benefits package related to the acquisition of these services in 2014. These tangible benefits were meant to be incremental to the actual spending of the services and were imposed as an additional contribution to the broadcasting system in exchange for the transfer of ownership. The benefits are set to run their course by the 2020-2021 broadcast year, and there is no guarantee that DHX would necessarily continue to make similar expenditures. Therefore, these tangible benefits should not be included in the calculations establishing the appropriate PNI expenditure requirement for the next licence term.

35. Further, the Commission notes that Family Channel's PNI expenditure requirement of 16%, as well as the group's current average PNI expenditure level of 14%, is significant given that many other services have no PNI requirement and that many services owned by the large broadcasting groups have much lower historical spending

levels and requirements. Moreover, following its renewal, Family Channel will no longer benefit from Category A must-offer status and will operate as a discretionary service subject to the standard requirements.

36. Based on all of the above, the Commission is of the view that the proposed group's PNI expenditure requirement should be set below its current average PNI expenditure level of 14%. However, the Commission considers that the proposed 10% PNI expenditure requirement could represent a significant decrease in PNI spending in a context where children's and youth programming are seeing reductions in the amount of original programming produced and broadcast. The Commission therefore considers that a PNI expenditure requirement of 13% would strike a good balance between DHX's desire for greater flexibility to adequately compete in the marketplace, its stated desire to adjust it programming plans going forward and ensuring an appropriate level of PNI expenditures.

37. Given all of the above, the Commission considers it appropriate to require the licensee to expend 13% of the previous year's revenues from the group on PNI. A **condition of licence** to that effect is set out in the appendix to this decision.

Independent production

38. DHX proposed that its requirement for independent production be based on the exhibition of Canadian programs. Specifically, at least 25% of all Canadian programming broadcast on the DHX services would be obtained from unaffiliated Canadian independent producers.

39. DHX noted that only Family Channel currently has a specific obligation with respect to spending on Canadian content or reliance on the independent production sector, which is that 60% of all PNI expenditures must be made to independent producers for the acquisition or commission of original, first-run programming.

Interventions

40. ACTRA and the Directors Guild of Canada (DGC) proposed that DHX be required, like the large broadcast groups, to direct 75% of PNI expenditures to independent production.

41. The CMPA proposed that DHX be subject to a group requirement that 60% of PNI expenditures be allocated to original, first-run programs from independent producers.

DHX's reply

42. DHX stated that it is first and foremost an independent producer and that an appropriate affiliated-production level for independent broadcasters and media companies such as itself supports the delivery of quality programming to the domestic market and the creation of content for international distribution.

43. DHX disagreed with ACTRA and the DGC’s position that independent services be subject to the same regulatory treatment as the large broadcast groups.

44. Further, in the event that the Commission decided to impose a requirement based on expenditures rather than exhibition, DHX proposed a requirement that 25% of its proposed 10% PNI expenditure level be allocated to independent Canadian production.

Commission’s analysis

45. Section 3(1)(i)(v) of the Act states that the programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector.

46. The Commission has in the past used exhibition requirements as one of the means of achieving the Act’s objectives relating to the creation and presentation of Canadian programming and the use of Canadian creative and other resources. However, while exhibition quotas may have been useful in ensuring the presentation of Canadian programming in a fully linear television system, they have become less and less effective in an increasingly on-demand environment.

47. In particular, exhibition quotas can also have unintended detrimental effects. Specifically, the programming can be repeated on the same service or “recycled” from other services. While this may be a viable business model for some services, the Commission determined in Broadcasting Regulatory Policy 2015-86 that expenditures on original Canadian productions add more value to the system and that the excessive repetition and recycling of programming appears to do little to achieve the objectives of the Act. Further, while the group-based framework provides licensees with some flexibility in attaining their CPE and PNI requirements, no flexibility exists with respect to exhibition quotas.

48. In the Commission’s view, an independent production expenditure level that is slightly lower than historical spending may be appropriate for DHX in the next licence term since, unlike most other group-based licensees, it has no conventional stations and no ties to the larger ownership groups, is subject to a higher PNI requirement, operates in the critical genre of children’s programming and is an independent broadcaster and producer.

49. In regard to the last factor, as an independent producer, DHX would benefit from the synergies created with its broadcasting services to better monetize its own productions. Allowing DHX to do so would help it contribute to achieving the policy objectives outlined in section 3(1)(i)(v) of the Act, while unduly limiting its use of its own content could have some negative consequences on its ability to sustain production in Canada. On the other hand, as the services operate in the genre of children’s programming where considerable consolidation has occurred in recent years, the Commission must also ensure that there remain a space for producers independent of the two main groups (Corus and DHX) who are engaged in the production and broadcast of such programming.

50. Based on all of the above, the Commission is of the view that a requirement that 50% of the licensee's required PNI expenditures be spent on independent production would strike a good balance between DHX's desire for greater flexibility, historical expenditures and status as an independent producer/broadcaster and ensuring an appropriate level of expenditures on independent production, especially in the critical genre of children's programming. A **condition of licence** to this effect is set out in the appendix to this decision.

Request for an exception to standard requirements for described video

51. DHX requested an exception to the standard requirement relating to the provision of described video for its three services. In support of its request, DHX stated that at the time of Family Channel's last licence renewal in 2011, it was part of a very large broadcast group operated by Astral, whereas it now operates as part of a much smaller group. DHX estimated that the financial impact of this requirement would amount to an additional $1 million per year for Family Channel, based on the assumption that 1,560 hours of content will require described video before broadcast each year, in addition to its current levels of described video.

52. DHX instead proposed to meet the standard requirements for discretionary services with respect to described video for the next licence term. For Family Channel, DHX would also commit to an expectation that it ensure that all new Canadian programming commissioned or produced by it from the applicable categories contain described video and that it seek to license and broadcast non-Canadian programming with described video where it is available.

Interventions

53. Bell, Rogers and Corus provided a general comment regarding described video requirements, stating that it would be difficult if not impossible for independent services to meet these requirements. They proposed amendments or exemptions to the standard requirement for described video.

Commission's analysis

54. The standard requirements for discretionary services set out in Appendix 2 of Broadcasting Regulatory Policy 2016-436 include the following:

    a. if the licensee broadcasts four hours or more per broadcast week of English- or French-language programming drawn from any of the program categories listed below, it shall, by the beginning of the fourth year of the first licence term during which this condition of licence applies, provide a minimum of four hours of described video per broadcast week for that programming.

    b. if the licensee broadcasts less than four hours per broadcast week of English- or French-language programming drawn from any of the program categories listed below, it shall, by the beginning of the fourth year of the first licence term during which this condition of licence applies, provide described video for all of that programming

These requirements apply to programming drawn from the following program categories set out in Item 6 of Schedule 1 to the *Discretionary Services Regulations*, as amended from time to time: 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety and 11(a) General entertainment and human interest and 11(b) Reality television, and/or to programming targeting preschool children (0-5 years of age) and children (6-12 years of age).

55. Télémagino and Family CHRGD each broadcast more than four hours per week of programming targeting children and would therefore be subject to condition (a) of the standard condition of licence. As neither of the services are currently subject to a requirement regarding described video, the next licence term would be the first licence term during which the condition applies. Therefore, they would be required to provide at least four hours of described video per broadcast week starting in the 2021-2022 broadcast year, the fourth year of the licence term.

56. The Commission is of the view that DHX has not provided sufficient evidence to justify a deviation from the standard requirement for Family CHRGD and Télémagino as it considers that the licensee has ample time to develop a programming strategy and acquire programming that would allow it to meet the requirement. As such, the Commission **denies** the requested exception to the standard condition of licence for these services.

57. In the case of Family Channel, the service also broadcasts far more than four hours per week of programming targeting children. However, contrary to Family CHRGD and Télémagino, Family Channel was subject to a requirement to broadcast described video at its last licence renewal. Therefore, according to Broadcasting Regulatory Policy 2015-104, the service should be subject to the standard requirement as modified in the following manner:

By 1 September 2019, the licensee shall provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television and/or is targeting preschool children (ages 0-5) and children (ages 6-12).

58. For the first year of the licence term (i.e. the 2018-19 broadcast year), the service would be required to offer four hours per week as it currently does. Therefore, DHX would have a full year to make the necessary arrangements.

59. The Commission is of the view that DHX has not provided sufficient evidence to justify a deviation from the standard requirements. For example, DHX did not indicate how many hours of its prime time programming falls under the described video programming categories. Moreover, DHX was made aware of the upcoming

change in requirements when the Commission adopted these requirements through a public process.

60. Finally, the Commission notes that DHX often commissions programming that receives funding from Certified Independent Production Funds (CIPFs). According to Broadcasting Regulatory Policy 2016-343, all programming supported by CIPFs must be provided with closed captioning and described video.

61. In light of all the above, the Commission **denies** DHX's request for an exception for Family Channel. Accordingly, in the appendix to this decision, it has imposed the standard described video requirement set out in Broadcasting Regulatory Policy 2016-436, as modified for services previously subject to such a requirement.

Non-compliance issues

Filing of annual returns

62. Licensees are required to file complete annual returns by 30 November of each year for the broadcast year ending the previous 31 August.

63. The annual returns for the three undertakings for the 2013-2014 broadcast year were filed after the 30 November deadline.

64. The licensee explained that at the time the services were owned by Astral and underwent various ownership changes. Due to the transfer of ownership, only unaudited interim condensed financial statements were prepared for the period ending 31 May 2014. DHX filed the missing annual returns following the receipt of a letter from Commission staff.

65. The Commission reminds the licensee of the importance of filing annual returns in a timely manner.

Closed captioning

66. The licensee also fell short (97.76%) of the requirement to caption all English- and French-language programs broadcast over the broadcast day for Family Channel in the 2013-2014 broadcast year.

67. DHX explained that certain promotional material not required by condition of licence to be closed captioned, such as category 15 programs, were inadvertently included in the audited closed captioning results. The remaining discrepancy was due to a small number of short-form programs that were erroneously broadcast without closed captioning.

68. Considering that the undertaking was in compliance for the other years of the licence term and the efforts demonstrated by DHX to resolve the situation, the Commission is of the view that this non-compliance is not sufficient to warrant a short-term renewal.

69. The Commission reminds the licensee that it must comply with regulatory requirements at all times.

Conclusion

70. In light of all the above, the Commission **renews** the broadcasting licences for the English-language discretionary services Family Channel and its multiplex Family Jr. and Family CHRGD and the French-language discretionary service Télémagino from 1 September 2018 to 31 August 2023. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminders

71. Section 8 of the *Discretionary Services Regulations* states that except as otherwise provided under a condition of its licence, a licensee shall provide to the Commission, within 30 days after the end of each month, the program log or record of its programming for the month.

72. The Commission reminds DHX that according to these regulations, the logs shall at all times be kept in an acceptable form, which means that they must be accurate, exact and precise.

73. The Commission will provide an annual assessment of the licensee's compliance with its regulatory requirements. This evaluation will be sent to the licensee before the end of the broadcast year following the year being evaluated. This will allow the licensee to verify that it is in compliance with its requirements for the year being evaluated.

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

Secretary General

Related documents

- *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016

- *Policy framework for Certified Independent Production Funds*, Broadcasting Regulatory Policy CRTC 2016-343, 25 August 2016

- *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

- *Astral Media inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2012-241, 26 April 2012

- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010

This decision is to be appended to each licence.

Appendix to Broadcasting Decision CRTC 2018-228

Terms, conditions of licence, expectations and encouragements for the English-language discretionary services Family Channel and its multiplex Family Jr. and Family CHRGD and the French-language discretionary service Télémagino

Terms

The licences will take effect 1 September 2018 and expire 31 August 2023.

Conditions of licence applicable to all services

1. The licensee shall adhere to the standard conditions of licence for discretionary services set out in Appendix 2 of *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, except for condition of licence 17 with respect to the English-language discretionary service Family Channel, which shall be replaced by the following:

   By 1 September 2019, the licensee shall provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television and/or is targeting preschool children (ages 0-5) and children (ages 6-12).

2. The licensee shall devote at least 35% of all programming broadcast during the broadcast day to the exhibition of Canadian programs.

3. 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 at least 20% of the previous year's gross revenues of the undertaking.

4. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more undertakings from the DHX Group in the same broadcast year towards fulfilling the requirement set out in condition 3 as long as these expenditures are not used by those undertakings towards fulfilling their own Canadian programming expenditure requirement.

5. Subject to condition 6, the licensee may claim, in addition to its expenditures on Canadian programming:

   a. a 50% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an Indigenous producer and claimed as Canadian programming expenditures during that broadcast year;

b. a 25% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an official language minority community producer and claimed as Canadian programming expenditures during that broadcast year. The licensee may claim the credit if:

   i. the programming is produced in the province of Quebec and the original language of production is English; or

   ii. the programming is produced outside the province of Quebec and the original language of production is French.

6. The licensee may claim the credits calculated in accordance with condition 5 until the expenditures made on Canadian programming produced by Indigenous producers and by official language minority community producers, including credits, reach a combined maximum of 10% of the Canadian programming expenditure requirement for the DHX Group.

7. The licensee shall in each broadcast year devote to the acquisition of or investment in programs of national interest at least 13% of the previous year's gross revenues of the undertaking.

8. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more undertaking from the DHX Group in the same broadcast year towards fulfilling the requirement set out in condition 7 as long as these expenditures are not used by those undertakings towards fulfilling their own expenditure requirement regarding programs of national interest.

9. At least 50% of the expenditures in condition 7 must be made to an independent production company.

10. In regard to expenditures on Canadian programming and/or 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 3 and 7 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 3 and 7.

11. In the two years following the end of the previous licence term, the licensee shall report and respond to any Commission enquiries relating to the expenditures on Canadian programming, including programs of national interest, made by the licensee and by the DHX Group for that term.

12. The licensee is responsible for any failure to comply with the requirements relating to expenditures on Canadian programming, including programs of national interest, that occurred during the previous licence term.

Additional condition of licence for Family Channel

13. The service is authorized to offer the number of multiplexed channels it operated as of 2 November 2016. With respect to each multiplexed channel, the licensee shall adhere to the Canadian programming requirements set out in its conditions of licence. The licensee may not offer new multiplex channels.

Definitions

For purposes of these conditions:

As an exception to the definition of “broadcast day” set out in Appendix 2 to the *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016 “broadcast day” means the 24-hour period beginning each day at 6 a.m. Eastern time.

“DHX Group” means, collectively, those services that are controlled by DHX Television Ltd. and for which the broadcasting licences have been renewed in *Family Channel, Family CHRGD and Télémagino – Licence renewals*, Broadcasting Decision CRTC 2018-228, 5 July 2018.

“Independent production company” means a Canadian company (i.e., a 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.

“Indigenous producer” means an individual who self-identifies as Indigenous, which includes First Nations, Métis or Inuit, and is a Canadian citizen or resides in Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and are Canadian citizens or reside in Canada. In regard to the definition of "independent production company," "Canadian" includes a person who self-identifies as Indigenous and resides in Canada, whereas "Canadian company" includes a production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and reside in Canada.

"Official language minority community producer" means a company that meets the definition of "independent production company" and that:

a. if operating in the province of Quebec, produces original English-language programming, or

b. if operating outside of the province of Quebec, produces original French-language programming.

"Programs of national interest" means:

a. For Family Channel and Family CHRGD: Canadian programs drawn from categories 2(b) Long-form documentary, 7 Drama and Comedy and all related subcategories, as well as specific Canadian award shows that celebrate Canadian creative talent, as defined in *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010.

b. For Télémagino: Canadian programs drawn from categories 2(b) Long-form documentary, 7 Drama and Comedy and all related subcategories, 8(a)Music and dance other than music video programs or clips, 8(b) Music video clips, 8(c) Music video programs and 9 Variety.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 2 of *Standard requirements for television stations, discretionary services and on demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.

Encouragements

The standard encouragements applicable to this licensee are set out in Appendix 2 of *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.