



Broadcasting Decision CRTC 2018-344

PDF version

References: 2017-365, 2017-365-1, 2017-365-2 and 3017-365-3

Ottawa, 31 August 2018

TV5 Québec Canada Across Canada

Public record for this application: 2017-0637-6

Public hearing in the National Capital Region

30 April 2018

TV5/UNIS TV – Licence renewal and renewal of mandatory distribution order

*The Commission **renews** the broadcasting licence for the national, French-language discretionary service TV5/UNIS TV from 1 September 2018 to 31 August 2023. The licensee broadcasts two feeds under the same licence: TV5 and UNIS TV.*

*Further, the Commission **renews**, from 1 September 2018 to 31 August 2023, the mandatory distribution order for TV5/UNIS TV on the digital basic service pursuant to section 9(1)(h) of the Broadcasting Act, at the same monthly wholesale rates of \$0.24 per subscriber in English-language markets and of \$0.28 per subscriber in French-language markets.*

This will allow the licensee to continue to broadcast the two feeds: the TV5 feed, which offers programming focused primarily on reflecting the international Francophonie, and the UNIS TV feed, which offers programming focused primarily on reflecting the diversity of the Canadian Francophonie, including official language minority communities.

Application

1. TV5 Québec Canada (TV5) filed an application to renew the broadcasting licence for the national, French-language specialty Category A service TV5/UNIS TV for a five-year term. The licence expires 31 August 2018.
2. TV5 is a not-for-profit corporation controlled by its board of directors.
3. The licensee broadcasts two feeds under the same licence:
 - the TV5 feed, which offers programming focused primarily on reflecting the international Francophonie; and
 - the UNIS TV feed, which offers programming focused primarily on reflecting the diversity of the Canadian Francophonie, including official-language minority communities (OLMCs).

4. TV5 confirmed that it would adhere to the standard requirements for discretionary services set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436 with respect to its service.
5. In its application, TV5 proposed changes to the wording of its current conditions of licence relating to original Canadian programming expenditures (OCPE), to expenditures on programs reflecting OLMCs or produced by producers located outside the Montréal Metropolitan Census Area (CMA) and to expenditures on programs produced by independent producers based outside Quebec.
6. TV5 also requested access to Canadian programming expenditure (CPE) credits for expenditures on programming produced by OLMC independent producers and Indigenous independent producers.
7. Lastly, TV5 requested to renew TV5/UNIS TV's mandatory distribution order on the digital basic service pursuant to section 9(1)(h) of the *Broadcasting Act* (the Act) for the next licence term at the same monthly wholesale rates per subscriber as those currently in effect, that is, \$0.28 in French-language markets and \$0.24 in English-language markets. The licensee stated that the service meets all of the criteria set out in paragraph 11 of Broadcasting Regulatory Policy 2010-629.
8. The Commission received nearly 600 interventions as well as a petition signed by almost 35,000 Canadians in support of the licence renewal and the renewal of the mandatory distribution order. The Commission also received comments from interveners who supported the licence renewal and the renewal of the mandatory distribution order, but also proposed amendments to the conditions of licence for the service. Lastly, the Commission received a small number of interventions in opposition to the application for the renewal of the distribution order.

Issues

9. After examining the record for the application in light of applicable regulations and policies, the Commission finds that the issues it must address relate to the following:
 - the renewal of the mandatory distribution order;
 - changes to the wording of the conditions of licence relating to OCPE;
 - access to CPE credits for expenditures directed to independent French-language OLMC producers and Indigenous producers;
 - the licensee's consultations with OLMCs;
 - information to be included in annual reports; and
 - other issues.

Renewal of the mandatory distribution order

10. In its intervention, Saskatchewan Telecommunications opposed the renewal of all mandatory distribution orders. The Community Media Advocacy Centre (CMAC) opposed the renewal of the distribution order for the TV5 feed as it offers mainly foreign programming. However, it supported the request regarding the UNIS TV feed in light of its positive impact for OLMCs. The other interveners were individuals who did not elaborate on the reasons for their opposition.
11. TV5 collectively replied to the interventions. In regard to the CMAC's position on renewing the distribution order for the UNIS TV feed and not for the TV5 feed, TV5 argued that its request to renew the distribution order for the service is justified as viewers, especially those in OLMCs, would be penalized should the order for both feeds not be renewed. According to TV5, while the regulated wholesale rate for UNIS TV on its own would likely be slightly lower than the current rate for both feeds, subscribers would have to pay more to continue to have access to both feeds. In addition, TV5 argued that there would be no guarantee that the TV5 feed would be offered to subscribers (particularly Francophones outside Quebec) since it would become a discretionary feed, meaning that its distribution would have to be negotiated with each broadcasting distribution undertaking (BDU).
12. In the Commission's view, TV5/UNIS TV, as a whole, continues to meet the criteria for mandatory distribution on the digital basic service established by the Commission and set out in paragraph 11 of Broadcasting Regulatory Policy 2010-629. As the only service whose programming is focused primarily on reflecting the diversity of the Canadian and international Francophonie, TV5/UNIS TV contributes to meeting several objectives of the Act. In particular, the operation of the two feeds furthers the objectives set out in sections 3(1)(d)(iii) and 3(1)(k) of the Act with respect to reflecting the linguistic duality of Canadian society and to the provision of a range of broadcasting services in English and French, as resources become available.
13. Furthermore, TV5/UNIS TV made exceptional commitments with respect to CPE as well as OCPE on programming originating from the regions of Quebec outside Montréal and from producers based outside Quebec.
14. The Commission also notes that the licensee's application received vast support from the Canadian population. Proof of support from the Canadian population is one of the elements that the Commission takes into account when evaluating an application for mandatory distribution.
15. TV5/UNIS TV also contributes to enhancing the vitality of French-language minorities in Canada by supporting their development and their on-screen reflection, consistent with the spirit of section 41 of the *Official Languages Act*.
16. Aside from TFO and the Canadian Broadcasting Corporation's (CBC's) television stations and discretionary services, whose local programming consists largely of local news, there is very little programming that represents French-language

OLMCs. There is evidence on the record showing that, since its launch, the UNIS TV feed has enabled French-language OLMCs from all regions of Canada to be reflected and see themselves on screen, and to be seen by Quebec's Francophone majority.

17. For its part, the TV5 feed allows Canadians to view diverse programming from the many different countries that are part of the international Francophonie, have access to cultural diversity, and be exposed to a diversity of journalistic perspectives in the French language.
18. In light of the above, the Commission finds it appropriate to approve the licensee's request for the continued mandatory distribution of TV5/UNIS TV on the digital basic service at the same wholesale rates for a period of five years.

Changes to the wording of the conditions of licence relating to original Canadian programming expenditures

19. In Broadcasting Decision 2013-384, the Commission approved the following conditions of licence applicable to TV5/UNIS TV:
 3. As regards Canadian programming expenditures:
 - (a) In each broadcast year, the licensee shall expend at least 55% of the gross revenues derived from the operation of the service during the previous year on the acquisition of or investment in Canadian programs.
 - [...]
 4. The licensee shall devote at least 75% of its Canadian programming expenditures to original, first-run Canadian programming for both feeds of its service combined, of which at least 40% in years 1 and 2 of operation, 50% in years 3 and 4 of operation and 60% in year 5 of operation shall be devoted to the acquisition of original French-language programs that:
 - (a) reflect the situation, achievements or aspirations of French-Canadian minority communities; or
 - (b) are produced or co-produced by independent producers located outside the Census Metropolitan Area of Montréal, as defined by Statistics Canada.
 5. At least 60% of the expenditures devoted to programming identified in 4(a) and (b) above shall be devoted to programs produced or co-produced by independent producers based outside of Quebec.
20. TV5 proposed changes to the wording of conditions of licence 4 and 5 above by replacing the word "expenditure" with the phrase "minimum required expenditure" such that the percentage of expenditures is based on a fixed amount, rather than a variable amount.

21. The Alliance des producteurs francophones du Canada (APFC), supported by On Screen Manitoba, the Front des réalisateurs indépendants du Canada (FRIC), the Fédération des communautés francophones et acadiennes du Canada (FCFA) and the Société nationale de l'Acadie (SNA) opposed this request and called for an increase in the percentage of OCPEs allocated to programming from OLMC producers.
22. The Commission considers that the issues to be addressed are as follows:
- Should the percentage of expenditures be based on fixed or variable amounts?
 - Should the percentage of OCPEs for programming from OLMC producers be increased?

Should the percentage of expenditures be based on fixed or variable amounts?

23. According to TV5, the current wording of its conditions of licence, whereby each sub-condition is calculated based on the amount spent in accordance with the preceding condition, creates a “domino” effect since each additional expenditure increases the amount required in the next sub-condition. The licensee argued that the new wording would eliminate this “domino” effect and would make it easier to calculate its CPE and OCPE requirements. Further, it would allow TV5 to make additional expenditures beyond the minimum requirements imposed on it without fear of finding itself in non-compliance as a result of the various sub-conditions. The licensee explained that the percentages based on variable amounts represent an incentive not to go beyond its minimum CPE obligations.
24. The APFC and On Screen Manitoba, supported by numerous interveners, opposed this request. These interveners expressed concern that the licensee will not devote its overspending to programming produced by producers outside Quebec if the Commission approves this amendment. The APFC stated that TV5 could increase its spending on programming produced by OLMC producers, if it fears finding itself in non-compliance.
25. For its part, the Association québécoise de la production médiatique (AQPM) supported TV5’s application, arguing that TV5 needs flexibility in its use of independent French-language producers.

Should the percentage of original Canadian programming expenditures for productions from OLMC producers be increased?

26. The APFC and several other interveners requested that a minimum of 50% of OCPEs be allocated to OLMC productions, and proposed the removal of sub-conditions 4 (a) and (b).
27. The APFC expressed the view that producers from OLMCs can meet the demand, citing growth in its membership, which it directly linked to the impact of TV5. It emphasized the fact that there is a need to continue producing more in order for

production companies in French-language OLMCs to keep operating, and in order to support artists and persons involved in these productions.

28. Further, the APFC, On Screen Manitoba and the FCFA expressed the view that programming produced by OLMC producers automatically reflects OLMCs.
29. For its part, the AQPM opposed an increase in the percentage of OCPE devoted to productions by OLMC producers. It claimed that Quebec producers from outside Montréal must deal with the effects of the increased percentage of programming from OLMC producers in the current licence term and that any new increase would make their situation even more difficult.
30. In its final reply, TV5 indicated that it was ready to accept a condition of licence whereby the percentage of OCPEs for programming produced by producers based outside Quebec would increase from an equivalent of 36% to 40% beginning in the third year of the new licence term. The licensee stated that since most projects are generally negotiated 18 to 24 months in advance, it would be difficult to adjust to significant changes to its obligations in the first and second year of the upcoming licence term.
31. The licensee stated that it would therefore be prepared to accept the following conditions of licence [translation]:
 4. The licensee shall devote at least 75% of the minimum required expenditures on the acquisition of Canadian programs to original, first-run Canadian programming for both feeds of its service combined.

At least 60% of the minimum required original, first-run Canadian programming expenditures shall be devoted to the acquisition of original French-language programs that:

 - a) reflect the situation, achievements or aspirations of Canadian French-language minority communities or of French-language communities in the regions; or
 - b) are produced or co-produced by independent producers located outside the Census Metropolitan Area of Montréal, as defined by Statistics Canada.
 5. In the first two years of the licence term, the licensee shall devote at least 36% and, in the third and each subsequent year, at least 40% of the minimum required expenditures on original first-run Canadian programming to programs produced or co-produced by independent producers based outside of Quebec.

Commission's analysis and decisions

32. Sections 5(2)(a), 5(2)(b) and 5(2)(g) of the Act provide that the Canadian broadcasting system should be regulated and supervised in a flexible manner that is

readily adaptable to the different characteristics of English- and French-language broadcasting and that is sensitive to the administrative burden that may be imposed on persons carrying on broadcasting undertakings. It is in this context that TV5 has convinced the Commission that the proposed amendments to the current conditions of licence would provide the licensee with more flexibility in the development of its programming schedules for the feeds, without compromising on the quantity and quality of the programming offered to OLMCs.

33. The Commission also notes that the licensee committed, by condition of licence, to increase the minimum OCPE devoted to independent producers outside Quebec. While this proposed increase is not as significant as the one requested by OLMC interveners, the Commission is of the view that TV5's proposal to increase the percentage of OCPE from 36% to 40% starting in the third year of the licence term represents an appropriate compromise that will allow for a gradual increase of the percentage of OCPE allocated to OLMC productions while preserving the licensee's ability to offer diverse content, including programs produced in the regions of Quebec outside the Montréal CMA.
34. For these reasons, the Commission finds the licensee's proposal to be appropriate and that the wording should be changed so that the percentages are based on fixed amounts.
35. In regard to the proposed changes to condition of licence 5 whereby the expenditures allocated to OLMC independent producers would be directly calculated as a percentage of the OPCE of condition of licence 4 rather than subconditions 4a) and b), the Commission considers that this would allow for those amounts to be separated from the amounts devoted to reflection and to programming produced outside the Montréal CMA.
36. In addition, the Commission is of the view that maintaining the requirement relating to the reflection of OLMCs separate from that set out in condition 5 would allow TV5 to continue to entrust the production of programming that reflects OLMCs to Montréal producers, as well as to by independent producers from OLMCs.
37. In light of the above, in the appendix to this decision, the Commission is imposing **conditions of licence** to reflect the above-noted proposals.
38. Finally, the Commission is sensitive to the concerns expressed by the APFC that, by eliminating the domino effect of the percentages calculated on the basis of variable amounts, TV5 might be inclined to meet only the bare minimum requirement for each of its conditions of licence and devote all of its additional expenditures to Montréal productions that are of interest to Quebec. The Commission therefore expects that all additional expenditures be allocated equitably to projects produced by producers from OLMCs, from the regions of Quebec outside Montréal and from the Montréal CMA.

Access to Canadian programming expenditure credits for expenditures directed to independent French-language OLMC producers and Indigenous producers

39. TV5 requested a 25% credit towards its CPE requirement for any OCPE expenditure that is over-and-above those required by condition of licence and that is allocated to programs produced by independent OLMC producers. TV5 specified that it is not requesting a credit for expenditures on programming produced by OLMC producers that would be included in its required expenditures in accordance with the conditions of licence.
40. The licensee stated that this credit would be applicable to the CPE requirement only and that it would not reduce its other obligations regarding OCPE. TV5 justified its request by invoking parity with the large broadcast ownership groups, which were granted the credit.
41. TV5 also requested authorization to claim a 50% credit towards its CPE requirement for productions by Indigenous independent producers. It proposed that this credit apply to all of its CPE since it does not have specific requirements relating to the broadcast of Indigenous programming.
42. The APFC, On Screen Manitoba and other interveners opposed the request for a 25% credit for programs produced by OLMC producers. On Screen Manitoba expressed the view that it would not be logical for TV5 to have an incentive that directly reflects its mandate.
43. The APFC added that TV5/UNIS TV cannot be compared to other discretionary services. Although its regulatory obligations to OLMCs are effectively greater than those of other discretionary services, the intervener noted that TV5/UNIS TV benefits from significant advantages stemming from mandatory distribution.

Commission's analysis and decisions

44. The mandate of TV5/UNIS TV is to represent all of the diversity of the Canadian and international Francophonie. The programming for and by OLMCs that the service offers makes TV5/UNIS TV an exceptional service and justifies its mandatory distribution as part of basic service.
45. The Commission considers that it would be counter-productive to reward a service that benefits from a mandatory distribution order for exceeding one of the core requirements of its nature of service, particularly where that reward would constitute a reduction to its general CPE requirement. For this reason, the Commission **denies** TV5's request for authorization to claim a credit of 25% towards its CPE requirement for overspending allocated to OLMC producers.
46. As for the CPE credit of 50% allocated to expenditures directed to independent Indigenous producers, the Commission notes that none of the interveners opposed the request in this regard.

47. In Broadcasting Decisions 2017-143 and 2017-148, the introductory decisions for the licence renewals of the large French- and English-language ownership groups, the Commission determined that incentives for productions by OLMC and Indigenous producers would facilitate greater access by these producers to the broadcasting system.
48. The Commission is of the view that, as with the large ownership groups, the licensee can play a key role by broadcasting programming that reflects Indigenous peoples. This reflection would be an extension of the service's current mandate to offer a "reflection of the diversity of the Canadian Francophonie" of which Indigenous peoples can be a part.
49. In light of the above, the Commission finds that granting such a credit would provide an incentive for the broadcaster to expend more on programming of this type, which would increase the reflection of Indigenous peoples on screen. Specifically, the licensee will receive a 50% credit towards its CPE requirements for expenditures on Canadian programming produced by Indigenous producers, up to a maximum (expenses plus credit) of 10% of the licensee's overall CPE requirement. Only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit. The Commission therefore **approves** the request. A **condition of licence** to that effect is set out in the appendix to this decision.

The licensee's consultation with official language minority communities

50. The APFC requested that the Commission impose a condition of licence, modeled on the condition imposed on the CBC, requiring regular meetings between TV5 and OLMC producers and their representatives.
51. The APFC expressed the view that since the Commission imposed the requirement on the CBC¹ to hold such consultations and file reports with the Commission, there has been better collaboration with the producers, and the reports clearly describe OLMC concerns.
52. The APFC stated that the licensee's regional offices certainly create contact, but that they have also distanced senior management from regional realities. According to the APFC, the offices are mainly used for discussions on specific projects, while formal consultations would allow for the discussion of issues and sharing of ideas.
53. For its part, OSM argued that regular meetings between TV5 and Francophone producers in Canada would help maintain the diversity of voices on screen, and facilitate talent discovery.

¹ See Broadcasting Decision 2013-263.

54. In its reply, the licensee stated that it does not have the same level of human and financial resources as the CBC and that it wants its resources to be focused on the concrete achievement of its mission, rather than on producing administrative reports.
55. TV5 added that senior management is already very present in the field and with organizations representing independent OLMC producers. It also stated that production heads in its regional offices work in close collaboration with independent producers. TV5 stated that it did not object to holding these meetings, but also that it did not see the need for a condition of licence.

Commission' analysis and decision

56. The licensee has three regional offices to facilitate exchanges with OLMCs, and an advisory committee for the programming of the UNIS TV feed that is comprised of members from different provinces, to help the licensee with programming choices. Their role is to ensure that OLMC producers have easy access to the licensee's staff given that the licensee is based in Montréal.
57. The Commission agrees that the licensee does not have the same level of human and financial resources as the CBC. While the Commission notes that there appears to be a lack of communication between TV5 and the APFC, it is not convinced that the record demonstrates that conditions of licence are needed to ensure a fruitful dialogue between the licensee and the independent producers and/or their associations.
58. In light of the above, the Commission will not impose a condition of licence in this regard. However, it encourages the licensee to hold an annual meeting in TV5's three regional offices on a rotating basis and to post the minutes of each meeting on the licensee's website.

Annual report

59. The APFC requested that TV5 be required to file annual reports providing a list of all programs broadcast, indicating the program category, the condition(s) of licence accounted for, and whether the program is an OLMC production. The report would also include, for each program identified, the name of the production company, the number of original hours/minutes produced, the channel on which it was first broadcast, and the amount invested by the licensee.
60. The APFC stated that this information is important for measuring the impact that the licensee has on OLMCs and OLMC independent producers. The APFC expressed the view that the information would also enable producers to evaluate progress within the whole of the industry. It understood that some information may be confidential and would readily accept the Commission's decision on this issue.
61. On the whole, On Screen Manitoba shared the same position as the APFC with respect to the production of annual reports. It added that reports similar to those provided by Aboriginal Peoples Television Network Incorporated (APTN) would be

a good way to measure the effectiveness of the conditions of licence and the success of TV5.

62. In its final reply, TV5 stated that its licence renewal application contained more information than did the reports submitted by APTN. It recognized, however, that the APFC and On Screen Manitoba would like annual reports and not one report at the time of licence renewal.
63. TV5 committed to posting on its website, by 30 November of each year, a complete list of the original first-run Canadian programs broadcast on TV5/UNIS TV during the previous broadcast year, with a brief description of the program, its genre, its length, the name of the production company and its location. TV5 stated that it would accept an expectation from the Commission in this regard.

Commission' analysis and decision

64. The Commission notes that no other licensee currently has a condition of licence of the type requested by the APFC and that some of the information it wishes to obtain could be directly requested of its members. In addition, the Commission will now require, by condition of licence, the filing of information on expenditures on and broadcasting of Canadian programming, as explained further below. Lastly, as announced above, the Commission encourages the licensee to hold an annual meeting where the licensee will be able to discuss with interested parties the information that it could put at their disposal in this regard.
65. In light of the above, the Commission considers that, for the time being, it is not warranted to impose such a requirement and finds the commitment made by the licensee to be sufficient. Accordingly, an expectation in regard to that commitment to this effect is set out in the appendix to this decision.

Other issues

66. In its final submission, the APFC asked the Commission to provide the licensee with more flexibility so as to allow it not only to spread out Canadian programming over-expenditures made at the start of its licence term over the entire term, but also to allow it to incur CPE deficits of more than 5% during the first three years provided that it offsets those deficits in subsequent years. TV5 did not reply to this request.
67. The AQPM requested that the Commission impose a condition of licence requiring expenditures on programs of national interest (PNI) equal to 32% of the revenues of TV5/UNIS TV. The AQPM also asked that 75% of these PNI expenditures be devoted to independent productions.
68. The licensee expressed the view that its numerous conditions of licence are sufficient to ensure that it will make an exceptional contribution to Canadian expression, and that it does not find the imposition of such a condition of licence relating to PNI expenditures to be necessary. It stated, however, that it would be

prepared to accept a condition of licence setting out a PNI expenditure requirement of 23% of the revenues of TV5/UNIS TV, should the Commission deem it necessary.

Commission's analysis and decision

69. The Commission's current practice regarding under-expenditures is to limit these to a maximum of 5% of the requirement for a given year, and to require that the shortfall be made up in its entirety in the following year. The APFC has not convinced the Commission that a departure from its usual practice is warranted.
70. In regard to PNI, Commission does not generally impose expenditure requirements on discretionary services that are not part of a large ownership group. The Commission also notes TV5 already makes exceptional contributions to Canadian programming through its CPE and OCPE requirements. Furthermore, the licensee already broadcasts numerous PNIs, in addition to devoting generally more than half of its CPE to PNI, without being required to do so by condition of licence. The Commission therefore finds that a condition of licence in this regard is not necessary.

Conclusion

71. In light of all the above, the Commission **renews** the broadcasting licence for the French-language discretionary service TV5/UNIS TV² from 1 September 2018 to 31 August 2023. The terms and **conditions of licence** are set out in the appendix to this decision.
72. Further, the Commission **renews**, from 1 September 2018 to 31 August 2023, the mandatory distribution order for TV5/UNIS TV on the digital basic service pursuant to section 9(1)(h) of the Act, at the same monthly wholesale rates of \$0.24 per subscriber in English-language markets and of \$0.28 per subscriber in French-language markets, in accordance with Broadcasting Order 2018-345, also issued today.
73. The mandatory distribution order associated with this service formerly contained a provision authorizing distribution licensees to increase the basic monthly fee to be paid by their subscribers by no more than the amount required under the order for the distribution of the service. However, since the Commission no longer regulates retail rates for BDU services except for basic service and since section 17.1 of the Regulations already addresses this matter, the Commission has not retained this provision in the renewed mandatory distribution order effective 1 September 2018.

² In Broadcasting Regulatory Policy 2015-86, the Commission announced that it would consolidate television programming service licences into three broad categories. According to this simplified approach, specialty Category A services are now designated as discretionary services.

Publication of financial information

74. With the change in licence type from specialty to discretionary and the removal of genre protection, all services that were previously considered specialty Category A services are now considered discretionary services. Under this revised approach to licensing, former specialty Category A services have lost their access rights, as well as genre protection, and have become similar to what the Commission has formerly called specialty Category B services. Pursuant to Broadcasting Regulatory Policy 2011-601, the Commission's practice is to publish only partial financial information for specialty Category B services owned by non-vertically integrated entities. Since most 9(1)(h) services were originally licensed as specialty Category A services and are independent, in making the switch to a discretionary service licence, the Commission in light of Broadcasting Regulatory Policy 2011-601, would normally cease publishing their complete financial information. However, given that the Commission sets wholesale rates for all services with mandatory distribution on the basic service, which are paid for by all BDU subscribers, these services do not engage in rate-related negotiations with BDUs. To ensure that services are transparent in the disbursement of the funds that are received, the Commission finds that the continued publication of complete financial information for these services is in the public interest. Accordingly, the Commission will continue to publish this information.

Secretary General

Related documents

- *Distribution of TV5/UNIS TV by licensed broadcasting distribution undertakings*, Broadcasting Order CRTC 2018-345, 31 August 2018
- *Applications for the renewal of services with mandatory distribution on the basic service pursuant to section 9(1)(h) of the Broadcasting Act*, Broadcasting Notice of Consultation CRTC 2017-365, 17 October 2017
- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016
- *TV5 and UNIS – Licence renewal and amendments*, Broadcasting Decision CRTC 2013-384, 8 August 2013
- *Canadian Broadcasting Corporation – Licence renewals*, Broadcasting Decision CRTC 2013-263, 28 May 2013
- *Regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011

- *Criteria for assessing applications for mandatory distribution on the digital basic service*, Broadcasting Regulatory Policy CRTC 2010-629, 27 August 2010

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2018-344

Terms, conditions of licence, expectations and encouragements for the national, French-language discretionary service TV5/UNIS TV

Terms

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

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for discretionary services set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.
2. In regard to its nature of service:
 - a) The licensee shall provide a national, French-language discretionary service targeted toward the Canadian and international Francophonie. The licensee may draw programming from all the program categories set out in Item 6 of Schedule I to the *Discretionary Services Regulations*, as amended from time to time. The licensee shall provide two separate feeds:
 - i) the TV5 feed, with programming focused mainly on the reflection of the diversity of the international Francophonie; and
 - ii) the UNIS TV feed, with programming focused mainly on the reflection of the diversity of the Canadian Francophonie, specifically official language minority communities and regions of Quebec outside Montréal.
 - b) In each broadcast year, the licensee shall devote to the broadcast of Canadian programs:
 - i) at least 15% of the programming of TV5 International during the broadcast day and the evening broadcast period;
 - ii) at least 75% of the programming of TV5 UNIS during the broadcast day and the evening broadcast period.
 - c) In each broadcast year, the licensee shall devote to the broadcast of original French-language programs at least 90% of the Canadian programming for each feed.
3. In regard to Canadian programming expenditures:
 - a) In each broadcast year, the licensee shall devote at least 55% of the previous broadcast year's gross revenues to the acquisition of or investment in Canadian programs.

- b) In any broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming that is up to 5% less than the minimum required expenditure for that year calculated in accordance with this condition; in such case, the licensee shall expend in the following 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.
- c) In any broadcast year of the licence term, the licensee may expend an amount on Canadian programming that is greater than the minimum required expenditure for that year calculated in accordance with this condition; in such case, the licensee may deduct:
- i) from the minimum required expenditure for the following broadcast year of the licence term, an amount not exceeding the amount of the previous year's over-expenditure; and
 - ii) from the minimum required expenditure for any subsequent broadcast year of the licence term, an amount not exceeding the difference between the over-expenditure and any amount deducted under paragraph (i) above.
- d) Notwithstanding paragraphs (b) and (c) above, during the licence term, the licensee shall devote to Canadian programs, at a minimum, the total of the minimum required expenditures calculated in accordance with this condition of licence.
4. The licensee shall devote at least 75% of the minimum required Canadian programming expenditures, notwithstanding any credits claimed, to original, first-run Canadian programs for both feeds of its service combined. At least 60% of the minimum required original first-run Canadian programming expenditures shall be devoted to original French-language programs that:
- a) reflect the situation, achievements or aspirations of Canadian French-language minority communities or of French-language communities in the regions; or
 - b) are produced or co-produced by independent producers located outside the Montréal Census Metropolitan Area, as defined by Statistics Canada.
5. In the first two years of the licence term, the licensee shall devote at least 36% and, as of the third and each subsequent year, at least 40% of the minimum required original first-run Canadian programming expenditures to programs produced or co-produced by independent producers based outside of Quebec.
6. Subject to condition 7, the licensee may claim, in addition to its expenditures on Canadian programming, 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.

7. The licensee may claim the credits calculated in accordance with condition 6 until the expenditures made on Canadian programming produced by Indigenous producers, including credits, reach a maximum of 10% of the Canadian programming expenditure requirement for the service.
8. 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 made by the licensee, as set out in conditions 3, 4 and 5 of the previous licence term.
9. The licensee shall be responsible for any failure to comply with the requirements relating to expenditures on Canadian programming set out in conditions 3, 4 and 5 of the previous licence that occurred during the previous licence term.
10. On or before 30 November of each year, the licensee shall file with the Commission a report on its expenditures for and exhibition of Canadian programming, in a manner and form prescribed by the Commission.

Definitions

For the purposes of the conditions of this licence:

“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.

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

An “original, first-run program” is defined as the original exhibition of a program that has not been distributed by another broadcasting undertaking licensed by the Commission.

Expectations

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

The Commission expects that all additional expenditures on original Canadian programming be allocated fairly to projects that meet the requirements of conditions of licence 3, 4 and 5.

The Commission expects the licensee to maintain, throughout its licence term, three regional offices in the French-language minority communities of Moncton, Toronto and Vancouver.

The Commission expects the licensee to maintain, throughout its licence term, a programming advisory committee that includes representatives from official-language minority communities.

The Commission expects the licensee to post on its website, by 30 November of each year, a complete list of the original, first-run Canadian programs broadcast on the TV5 and UNIS TV feeds during the previous broadcast year, with a brief description of the program, its genre, its length, the name of the production company and its location.

Encouragements

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

The Commission encourages the licensee to hold an annual meeting with the official-language minority communities in the regions of Atlantic Canada, Ontario, and Western and Northern Canada to discuss issues that influence their success and vitality. The Commission encourages the licensee to hold this meeting in its regional offices in Moncton, Toronto and Vancouver on a rotating basis and to post the minutes of each meeting on the licensee's website.