



## Broadcasting Decision CRTC 2019-284

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Reference: Part 1 licence renewal application posted on 22 February 2019

Ottawa, 8 August 2019

**Fantasy Sports Media Group Inc.**  
Toronto, Ontario

*Public record for this application: 2018-0742-1*

### Game+ – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language discretionary service Game+ from 1 September 2019 to 31 August 2024.*

#### Application

1. Fantasy Sports Media Group Inc. (Fantasy Media) filed an application to renew the broadcasting licence for the national, English-language discretionary service Game+ (formerly FNTSY Sports Network), which expires 31 August 2019. The Commission did not receive any interventions regarding this application.
2. Fantasy Media confirmed that it would adhere to the standard requirements for discretionary services set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436. Further, the licensee proposed to devote, in each broadcast year, a minimum of 10% of the service's previous broadcast year's gross revenues to Canadian programming expenditures (CPE).

#### Non-compliance

3. Pursuant to section 8(1) of the *Specialty Services Regulations, 1990*, licensees were required to file, by no later than 30 November of each year, an annual return for the broadcast year ending the previous 31 August.<sup>1</sup>
4. In this regard, the annual return for Game+ for the 2014-2015 broadcast year was not filed on time. Fantasy Media attributed the late filing to a technical failure when uploading its annual return.
5. In light of the above, the Commission finds the licensee in non-compliance with section 8(1) of the *Specialty Services Regulations, 1990*, for the 2014-2015 broadcast year. However, given that this is the first instance of non-compliance by Fantasy

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<sup>1</sup> In 2017, these regulations were replaced by the *Discretionary Services Regulations*, of which section 9(1) sets out this same requirement.

Media in regard to the requirement relating to the filing of annual returns, and given that all other annual returns for the service were filed on time and were complete, the Commission finds that no further action is necessary.

### **Canadian programming expenditures**

6. In Broadcasting Regulatory Policy 2015-86, the Commission announced that CPE requirements would be implemented for all English- and third-language discretionary services with over 200,000 subscribers, based on historical expenditure levels.
7. As noted above, Fantasy Media proposed a minimum CPE level of 10% of Game+'s previous broadcast year's gross revenues. The licensee acknowledged that its CPE spending exceeded that level in previous broadcast years when it was necessary to create fantasy sports genre programming where none had previously existed, but argued that this approach is not sustainable given the service's small subscriber base. It also requested conditions of licence granting a 25% CPE credit for productions made by official language minority community (OLMC) producers and a 50% CPE credit for productions made by Indigenous producers.
8. Since its launch in 2015, the amount of money spent by Game+ on Canadian programming has exceeded its total revenues. Moreover, the service has not been profitable since its launch. Accordingly, and consistent with the minimum CPE level of 10% for discretionary services set out in Broadcasting Regulatory Policy 2015-86, the Commission finds a 10% CPE requirement for Game+ to be appropriate. A **condition of licence** to that effect is set out in the appendix to this decision.
9. In regard to the requested CPE credits for productions made by OLMCs and Indigenous producers, the Commission considers that they would represent positive measures for fostering the creation of content by and relevant for these groups, who are under-represented in the broadcasting system.
10. Accordingly, the Commission considers it appropriate to adopt an incentive to encourage the reflection of Indigenous peoples within the Canadian broadcasting system. 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 when combined with the credit discussed below on OLMC reflection. Only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit.
11. The Commission is also of the view that a similar credit could encourage greater onscreen reflection of OLMCs in the Canadian broadcasting system. Consequently, the licensee will receive a 25% credit against its CPE requirements for expenditures on Canadian programming produced by OLMC producers, up to a maximum (expenses plus credit) of 10% of the licensee's overall CPE requirement when combined with the credit discussed in the preceding section on Indigenous reflection. Only programming costs counting towards CPE as defined in Public Notice 1993-93

will be considered eligible for the credit. Further, the OLMC producer must be an independent producer as defined by the Commission and (i) if in the province of Quebec, the original language of the production must be English or (ii) if outside of the province of Quebec, the original language of the production must be French.

12. Accordingly, the Commission has set out **conditions of licence** to that effect in the appendix to this decision.

## **Conclusion**

13. In light of the above, the Commission **renews** the broadcasting licence for the national, English-language discretionary service Game+ from 1 September 2019 to 31 August 2024. The **conditions of licence**, expectations and encouragements for this service are set out in the appendix to this decision.

## **Reminder**

14. The timely filing of complete annual returns, including financial statements, is a basic and fundamental regulatory obligation. Compliance with this requirement not only allows the Commission to effectively monitor licensees' performance and compliance with various regulations and obligations, but also enables it to effectively assess, supervise, and regulate the television broadcasting industry as a whole. Accordingly, the late or incomplete filing of annual returns and financial statements is considered to be a serious matter.

Secretary General

## **Related documents**

- *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016
- *Let's Talk TV – The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *The reporting of Canadian programming expenditures*, Public Notice CRTC 1993-93, 22 June 1993

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

## Appendix to Broadcasting Decision CRTC 2019-284

### Terms, conditions of licence, expectations and encouragements for the English-language discretionary service Game+

#### Terms

The licence will take effect 1 September 2019 and expire 31 August 2024.

#### 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, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. In each broadcast year, the licensee shall devote to the acquisition of or investment in Canadian programming at least 10% of the previous year's gross annual revenues of the undertaking.
3. Subject to condition 4, 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.
4. The licensee may claim the credits calculated in accordance with condition 3 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 undertaking.
5. In regard to expenditures on Canadian programming:

- a) In each 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 condition of licence 2; 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 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, at a minimum, the total of the minimum required expenditures calculated in accordance with condition of licence 2.
6. 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 for that term.
  7. The licensee is responsible for any failure to comply with the requirements relating to expenditures on Canadian programming that occurred during the previous licence term.

## **Definitions**

For purposes of these conditions of licence:

“Broadcast year” shall have the same meaning as that set out in the *Discretionary Services Regulations*.

“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.

### **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.

### **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.