



Broadcasting Decision CRTC 2020-283

PDF version

Reference: Part 1 licence renewal application posted on 31 January 2020

Ottawa, 21 August 2020

Thunder Bay Electronics Limited
Thunder Bay, Ontario

Public record for this application: 2019-0757-8

CKPR-DT Thunder Bay – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language conventional television station CKPR-DT Thunder Bay, Ontario, 1 September 2020 to 31 August 2023.*

Application

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-192, which listed the television services and stations for which the licences needed to be renewed to continue their operations. In that notice, the Commission requested that the licensee of those stations and services submit renewal applications for their broadcasting licences.
3. In response, Thunder Bay Electronics Limited (Thunder Bay Electronics) filed an application to renew the broadcasting licence for the independent English-language conventional television station CKPR-DT Thunder Bay, Ontario, which expire 31 August 2020.
4. Thunder Bay Electronics is the licensee for both CKPR-DT and CHFD-DT, which together constitute a twin-stick operation, that is, they are conventional television stations that are owned by a single licensee and operate in the same market. In Broadcasting Decision 2013-467, the Commission renewed the stations' broadcasting licence for different terms: CHFD-DT's licence was renewed for a five year term due to a minor non-compliance with its closed captioning requirement and CKPR-DT's licence was renewed for a full seven year licence term, as it was in compliance with all its regulatory obligations.

5. As a twin-stick operation, CKPR-DT and CHFD-DT are permitted to broadcast a combined total of 14 hours of local programming per broadcast week, rather than the required seven hours per broadcast week per station for stations operating in non-metropolitan markets, as set out in Broadcasting Regulatory Policy 2016-224.
6. In its application, the licensee requested the same conditions of licence as those of CHFD-DT, set out in Appendix 1 to Broadcasting Decision 2018-478.

Commission's analysis and decisions

7. After examining the application in light of applicable policies and regulations, the Commission considers that the issues it must address relate to the following:
 - Canadian programming expenditures (CPE);
 - local programming;
 - locally reflective news; and
 - licence term.

Canadian programming expenditures

8. Sections 3(1)(e) and 3(1)(s)(i) of the Act declare that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming and that private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming. In accordance with this aspect of the broadcasting policy and pursuant to its authority in section 9(1), the Commission has imposed conditions of licence requiring programming undertakings to contribute in various ways to the creation of Canadian programming, including imposing CPE requirements.
9. In Broadcasting Regulatory Policy 2015-86, the Commission announced that it would impose CPE requirements on all independent over-the-air television stations and that it would set the appropriate CPE levels at the time of licence renewal, based on historical expenditure levels.
10. Thunder Bay Electronics proposed a CPE level of 30% of CKPR-DT's gross revenues from the previous broadcast year. The licensee stated that its proposed threshold would allow it to continue to provide quality programming while providing it with enough flexibility to offset a decline in revenue. It added that a higher CPE requirement would create pressure on the station to remain viable, as the current declining advertising sales and increasing operating costs could potentially bring it to a breaking point.

11. Since 2015, the licensee has spent an average of 47% of its gross revenue from the previous broadcast year on Canadian programming. However, the Commission notes that the percentage was lower in the 2015-2016 broadcast year and increased through the 2018-2019 broadcast year. During the same period, CKPR-DT experienced steady revenue declines, incurring losses. As a result, the percentage of the station's gross revenue directed to Canadian programming increased significantly.
12. The Commission considers that a CPE requirement of 47% based on the station's historical expenditures would not be reflective of the service's current financial situation. In addition, in Broadcasting Decision 2017-148, the Commission imposed on each of the large English-language designated broadcast groups a CPE requirement of 30% of the group's gross revenue from the previous year. Therefore, a requirement greater than 30% would be higher than that imposed on those groups, which typically have access to greater resources than small independent local stations. The Commission also notes that a CPE requirement of 30% would be consistent with that imposed on CKPR-DT's twin station, CHFD-DT Thunder Bay, in Broadcasting Decision 2018-478.
13. In light of the above, the Commission considers that the licensee's proposed CPE level of 30% is appropriate for CKPR-DT. A **condition of licence** to that effect is set out in the appendix to this decision.
14. The broadcasting policy set out in section 3(1) of the Act also provides that the Canadian broadcasting system should reflect the linguistic duality of Canada and the special place of Indigenous peoples within Canadian society (section 3(1)(d)(iii)).
15. The Commission considers it appropriate to adopt an incentive to encourage the reflection of Indigenous peoples in the broadcasting system. Specifically, for each of their stations, licensees 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 that licensee's overall CPE requirement when combined with the credit discussed below regarding official language minority community (OLMC) reflection. Only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit.

16. The Commission is also of the view that a similar credit could encourage greater onscreen reflection of OLMCs in the broadcasting system. Consequently, each 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 that licensee's overall CPE requirement when combined with the credit discussed above regarding Indigenous reflection. Once again, 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.
17. **Conditions of licence** reflecting these determinations are set out in the appendix to this decision.

Local programming

18. In addition to the requirements to contribute to the creation and presentation of Canadian programming identified above, section 3(1) of the Act also requires programming provided by the Canadian programming system to be drawn from local, regional, national and international sources (section 3(1)(i)(ii)) as well as to be reflective of Canadian attitudes, opinions, ideas and values (section 3(1)(d)(ii)), and to serve the needs and interests, and reflect the circumstances and aspirations of all Canadians (section 3(1)(d)(iii)). In accordance with these aspects of the broadcasting policy and pursuant to its authority in section 9(1), the Commission has imposed conditions of licence regarding local programming and locally reflective news on television stations.
19. In Broadcasting Regulatory Policy 2016-224 (Local Television Policy), the Commission set out regulatory measures to ensure that Canadians continue to have access to local programming that reflects their needs and interests, including:
- requiring that local television stations maintain historical exhibition and expenditure levels for locally reflective news and information;
 - requiring that commercial English-language stations would continue to be required to broadcast at least 7 hours of local programming per week in non-metropolitan markets;
 - requiring that a minimum level of local programming be devoted to local news, to ensure that Canadians continue to benefit from local reflection in the form of local news; and
 - requiring all licensees to broadcast a minimum level of local news and to allocate a percentage of their previous year's revenues to such programming, with the exhibition and expenditure levels to be determined at licence renewal based on historical levels.

20. As an exception to the standard condition of licence, the licensee proposed to broadcast a total of 14 hours of local programming per broadcast week, to be shared with its twin station CHFD-DT. It stated that this requirement was approved by the Commission when it last renewed the licence for the other head of the twin-stick operation, CHFD-DT, in Broadcasting Decision 2018-478.
21. The Commission notes that it offered this flexibility to both stations in Broadcasting Decision 2013-467 in order to allow the licensee to choose how to allocate the local news on its two stations.
22. When the Commission renewed CHFD-DT's licence in 2018, it maintained this request for flexibility because the impact of such an exception on the residents of the city of Thunder Bay would be relatively minor, given that it would not reduce the overall number of hours of original, local programming in this market. Therefore, the Commission considers that imposing the same condition of licence on CKPR-DT would be consistent with its determination in the above-noted decisions and the requirements imposed on CHFD-DT.
23. In light of the above, the Commission **approves** the licensee's proposal regarding local programming. A **condition of licence** to that effect is set out in the appendix to this decision.
24. The Commission also expects the licensee to ensure that some local programming is broadcast on each station to allow viewers to benefit from local programming on both CKPR-DT and CHFD-DT. Accordingly, an expectation to that effect is set out in the appendix to this decision.

Locally reflective news

Licensee's proposal

25. The licensee is not currently required, by condition of licence, to broadcast locally reflective news. However, for the next licence term, the licensee proposed to devote a combined total of 14 hours per broadcast week to locally reflective news, shared with its twin station, CHFD-DT. Thunder Bay Electronics also proposed an expenditure requirement of 20% of the previous broadcast year's gross revenues on locally reflective news for CKPR-DT.
26. The licensee argued that declining revenues and high operating costs, coupled with the current state of conventional television in Canada, has resulted in declining profitability. It indicated that, as a result, it could not commit to a requirement of locally reflective news based on its historical spending levels. The licensee also submitted that, to ensure its longer term viability and the greatest flexibility for its operations, its spending requirement should be harmonized with its other station operating in Thunder Bay.

27. Although the licensee spent 48% of its gross revenue from the previous year on locally reflective news for the 2017-2018 and 2018-2019 broadcast years, it indicated that this type of spending is no longer reflective of its business model.

Commission's analysis and decision

28. The Commission notes that in non-metropolitan markets such as Thunder Bay, a licensee is required to broadcast 7 hours of locally reflective news per station, per week. However, since 2013, the Commission has allowed these two stations to aggregate the required hours of exhibition. The Commission considers that this condition continues to be appropriate and, given that the majority of the programming broadcast on these two stations is local news, harmonization of the exhibition requirements is unlikely to impact the market and residents will continue to be able to access this programming at the level they are currently used to.
29. The Commission considers that combining CKPR-DT and CHFD-DT's exhibition requirements would allow the licensee a certain amount of flexibility in regard to its programming strategy, which would be beneficial to the licensee given its financial situation.
30. In light of the above, the Commission **approves** the licensee's proposal regarding locally reflective news and imposes an exhibition requirement of 14 hours per broadcast week, counted in aggregate with CFHD-DT. A **condition of licence** to that effect is set out in the appendix to this decision.
31. With regards to the expenditure level, the Commission notes that the 20% requirement proposed by the licensee is significantly lower than the station's historical levels of expenditures on locally reflective news programming, which for the 2017-2018 and 2018-2019 broadcast years were at an average level of 48%. However, given CKPR-DT's current and historical financial performance, the Commission considers it appropriate to afford CKPR-DT some flexibility on the requirement relating to locally reflective news, by imposing a requirement that aligns with its current business model and in recognition of the fact that the licensee operates two over-the-air stations in the same market. Accordingly, and considering the current economic environment and the requirement imposed on CHFD-DT, the Commission considers that an expenditure requirement of 20% of the previous broadcast year's gross revenues on locally reflective news, as proposed by the licensee, is appropriate for the station.
32. A **condition of licence** to that effect is set out in the appendix to this decision.

Licence term

33. The Commission acknowledges that the licensee is in compliance with all its regulatory obligations. However, because CKPR-DT and CHFD-DT are twin-stick stations in the Thunder Bay market and share local programming requirements, the Commission considers that future evaluations of these services would most effectively be done when considered together. Given that CHFD-DT was given a shortened licence term in 2013 due to previous non-compliance, the licence terms for the two stations are not aligned.
34. CHFD-DT's licence expires on 31 August 2023. Accordingly, to align the expiry dates of the two stations, the Commission renews CKPR-DT's licence until 31 August 2023.

Conclusion

35. In light of all of the above, the Commission **renews** the broadcast licence for the independent English-language commercial television programming undertaking CKPR-DT Thunder Bay, Ontario, from 1 September 2020 to 31 August 2023. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

Related documents

- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-192, 3 June 2019
- *Various independent conventional television programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2018-478, 18 December 2018
- *Renewal of licences for the television services of large English-language ownership groups – Introductory decision*, Broadcasting Decision CRTC 2017-148, 15 May 2017
- *Policy framework for local and community television*, Broadcasting Regulatory Policy 2016-224, 15 June 2016
- *Let's talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *Various independent conventional and community-based television programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-467, 30 August 2013

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2020-283

Terms, conditions of licence, expectations and encouragements for the English-language conventional television programming undertaking CKPR-DT Thunder Bay, Ontario

Terms

The licence will expire 31 August 2023.

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence set out in the broadcasting licence for the undertaking, as well as to the conditions of licence set out in Appendix 1 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, with the exceptions of conditions 5 and 14, which are replaced with the following:
 5. The licensee shall broadcast at least 14 hours of local programming per week counted in aggregate with the local programming broadcast by CHFD-DT Thunder Bay.
 14. The licensee shall, by 1 September 2020, 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 programming targeting preschool children (0-5 years of age) and children (6-12 years of age).

Locally-reflective news

2. In accordance with paragraph 90 of *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016, the television station is declared to be a “designated local television station.” The station will maintain this designation for the duration of the licence term as long as the television station remains in operation.
3. In accordance with *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016, the licensee shall devote, in each broadcast year, not less than 20% of the station’s previous broadcast year’s gross revenues to investments in locally reflective news or on acquisition thereof.

4. In each broadcast year of the licence term, excluding the final year,
 - a) the licensee may expend an amount on locally reflective news that is up to 5% less than the minimum required expenditure for that year.
 - b) where the licensee expends an amount for that year on locally reflective news that is greater than the minimum required, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.
 - c) the licensee shall ensure that the television station expends on locally reflective news the total of the minimum required expenditures calculated in accordance with condition 3.
5. The licensee shall broadcast at least 14 hours of locally reflective news each broadcast week, counted in aggregate with the locally reflective news broadcast by CHFD-DT Thunder Bay, Ontario.

Canadian programming expenditures

6. The licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming a minimum of 30% of the previous broadcast year's gross revenues of the undertaking.
7. Subject to condition 8, 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.
8. The licensee may claim the credits calculated in accordance with condition 7 until the expenditures made on Canadian programming produced by Indigenous producers and by official language minority community producers, including credits, reach a maximum of 10% of the Canadian programming expenditure requirement for the undertaking.

9. In regard to Canadian programming expenditures:

- 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 6; 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 6.

Definitions

For the purposes of these conditions of licence:

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. For the purposes of this definition, "Canadian" includes a person who self-identifies as Indigenous and resides in Canada, and "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.

Local programming means programming produced by either local stations with local personnel or locally-based independent producers, that is of interest to the community or market served (i.e., locally relevant).

Locally reflective news means programming that meets the criteria set out in paragraphs 56 to 58 of *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016.

Official language minority community producer (OLMC) means a company that meets the definition of "independent production company" and that, if operating in the province of Quebec, produces original English-language programming or, if operating outside of the province of Quebec, produces original French-language programming.

Clarification for OLMC producer:

To be **considered** an OLMC producer in Canada, a production company must:

- a) if it produces original programs in English, have its head office in Quebec and be owned and operated by a resident of Quebec; or
- b) if it produces original programs in French, have its head office outside Quebec and be owned and operated by a resident outside of Quebec.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 1 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.

The Commission expects the licensee to ensure that a part but not all of the local programming and locally reflective news programming to be broadcast in aggregate on CKPR-DT Thunder Bay and CHFD-DT Thunder Bay is broadcast on CHFD-DT, so as to ensure that the station's viewers will continue to benefit from local programming.

Encouragements

The standard encouragements applicable to this licensee are set out in Appendix 1 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.