



## Broadcasting Decision CRTC 2012-245

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Route reference: 2011-525

Additional references: 2011-525-1 and 2011-525-2

Ottawa, 26 April 2012

**Canal Évasion inc.**  
Across Canada

*Application 2011-0527-1, received 6 July 2011  
Public hearing in Montréal and Québec, Quebec  
5 December 2011*

### Évasion – Licence renewal and amendments

*The Commission **renews** the broadcasting licence for the national, French-language specialty Category A service Évasion for a five-year term, from 1 September 2012 to 31 August 2017.*

*The Commission also **approves** amendments to certain conditions of licence relating to the programming broadcast on the service.*

### Introduction

1. The Commission received an application by Canal Évasion inc., to renew the broadcasting licence for the national, French-language specialty Category A service Évasion, which expires 31 August 2012.
2. As part of its licence renewal application, Canal Évasion inc. proposed to amend its condition of licence relating to the type of sports that can be broadcast on the service. The licensee also proposed to amend the limits on certain program categories that may be broadcast. Specifically, it requested authorization to broadcast during each broadcast month a maximum of 10% of stick and ball sports, including hockey, baseball, football, basketball, golf, soccer and tennis. In this regard, the licensee is currently authorized to devote a maximum of 10% of the broadcast year to programming drawn from program category 6(a) Professional sports, but is not permitted to broadcast stick and ball sports. As justification for its request, the licensee noted that broadcast limits for stick and ball sports content were not imposed on other Category A services that took advantage of the flexibility offered by Broadcasting Public Notice 2008-100.
3. In addition, the licensee proposed to amend certain of its conditions of licence so that a maximum of 10% of the programming broadcast each broadcast month may be

drawn from each of program categories 7(c), 7(d) and 7(e), as well as 8(b) and 8(c) combined.

4. The licensee further indicated that it would adhere to the standard conditions of licence for specialty Category A services set out in Broadcasting Regulatory Policy 2011-443.
5. The Commission received interventions in support of the application, as well as interventions offering general comments, to which the licensee replied. The public record for this proceeding can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
6. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address relate to the following:
  - the condition of licence relating to the broadcast of stick and ball sports;
  - the condition of licence relating to the use of independent production;
  - the limits on certain program categories; and
  - the length of the licence term

**Condition of licence relating to the broadcast of stick and ball sports**

7. In its intervention, Bell Media Inc. (Bell) opposed the proposed amendment to the condition of licence relating to the broadcast of stick and ball sports programming. According to Bell, such programs are not consistent with the specialized nature of the service. In addition, Bell argued that the Commission had specifically excluded such sports from Évasion's broadcasting licence at the time of its renewal in 2006.<sup>1</sup> Finally, Bell noted that the Commission denied Outdoor Life Network's (OLN's) request to broadcast stick and ball sports programming in Broadcasting Decision 2010-466.
8. The licensee disputed Bell's analysis regarding the ban on the broadcast of stick and ball sports programming. It noted that the ban imposed on OLN was in connection with that service's particular situation due to the possible synergies with Sportsnet, which belongs to Rogers Sportsnet Inc. The licensee indicated that its service was independent and that there was no reason for it to be treated any differently from any other specialty service operating in the French-language market.
9. Having considered Bell's comment and the applicant's reply, the Commission considers that the amendment to the condition of licence relating to the broadcast of stick and ball sports does not raise any concerns over the integrity of Évasion's nature

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<sup>1</sup> See Broadcasting Decision 2006-10.

of service, given that the licensee will be required to broadcast, at all times, programs devoted entirely to tourism, adventure and travel.

10. In light of the above, the Commission **approves** the licensee's request in regard to the broadcast of stick and ball sports programming, and authorizes it to devote during each broadcast month a maximum of 10% of its programming to such programming. The Commission notes that the licensee will continue to be authorized to devote a maximum of 10% of the broadcast year to programming drawn from program category 6(a). A **condition of licence** to that effect is set out in the appendix to this decision. The Commission reminds the licensee that all programs broadcast must be consistent with Évasion's nature of service and that those programs must be devoted entirely to tourism, adventure and travel.

#### **Condition of licence relating to the use of independent production**

11. In its intervention, the Association des producteurs de films et de télévision du Québec (APFTQ) stated that the scope and application of the condition of licence regarding the use of independent producers are not as clearly defined as they could be. It proposed that this condition of licence be amended as follows (proposed changes have been translated from French and are in bold):

The licensee shall spend no more than 45% of its annual budget for **producing and** acquiring the rights to original Canadian programming on programs produced **by itself**, by companies that are shareholders of the licensee or its affiliated companies.

12. The licensee confirmed that the APFTQ's amendment to clarify the condition of licence regarding the use of independent producers is consistent with its own interpretation of that condition of licence. It stated that it therefore has no objection in regard to the amendment proposed by the APFTQ.
13. The Commission notes that the licensee agreed with the amendment proposed by the APFTQ. Further, the Commission considers that the primary purpose of that condition of licence is unchanged and that its application is clarified. Accordingly, the Commission **approves** the proposed amendment to the licensee's condition of licence relating to the use of independent production. The amended **condition of licence** is set out in the appendix to this decision.

#### **Limits on certain program categories**

14. The Commission notes that the new limits for certain program categories proposed by the licensee comply with the programming limits established in Broadcasting Regulatory Policy 2008-100. Accordingly, the Commission also **approves** the request by the licensee to amend certain conditions of licence so that a maximum of 10% of the programming broadcast during each broadcast month may be drawn from each of program categories 7(c), 7(d) and 7(e), as well as from program categories 8(b) and 8(c) combined. The amended **conditions of licence** are set out in the appendix to this decision.

### **Length of the licence term**

15. The licensee requested that the Commission renew the broadcasting licence for the full seven-year term, as set out in the *Broadcasting Act*, and submitted that the group-based approach set out in Broadcasting Regulatory Policy 2010-167 does not apply to its service.
16. Even though there were no interventions in opposition to the licence term proposed by the licensee, and even though the licensee is in compliance with all of its conditions of licence, the Commission considers that it would be more appropriate to impose a five-year licence renewal term for this service, given the pace of change in the broadcasting environment and its desire to assess the impact of its approach on all services.

### **Conclusion**

17. The Commission is satisfied that the application complies with all applicable policies, terms and conditions set out in Broadcasting Public Notice 2008-100. The Commission notes that the licensee indicated that it would accept the conditions of licence proposed by the Commission, which can now be found among the standard conditions of licence for Category A services set out in Broadcasting Regulatory Policy 2011-443. Accordingly, the Commission imposes these standard **conditions of licence** on *Évasion*.
18. In light of all of the above, the Commission **renews** the broadcasting licence for the French-language specialty Category A service *Évasion* from 1 September 2012 to 31 August 2017. The terms and **conditions of licence** are set out in the appendix to this decision.

### **Expectation regarding regional reflection and the reflection of official language minority communities**

19. The Commission recognizes the significant efforts made by *Évasion* to present programs that reflect communities located in all regions of Quebec and Canada, including official language minority communities. To ensure that *Évasion* continues on this path and adequately uses production services outside of Montréal and outside of Quebec, the Commission sets out the following expectation, as it has for all French-language specialty services:

The Commission expects the licensee to ensure that the programming broadcast by the service adequately reflects all of Quebec's regions, including those outside of Montréal, as well as all of Canada's regions. The Commission also expects the licensee to provide opportunities for producers working in these regions to supply programming for the service.

Secretary General

## Related documents

- *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011
- *Outdoor Life Network – Licence amendments*, Broadcasting Decision CRTC 2010-466, 9 July 2010
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Canal Évasion – Licence renewal*, Broadcasting Decision CRTC 2006-10, 19 January 2006

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

## Appendix to Broadcasting Decision CRTC 2012-245

### Term, conditions of licence and expectation for the specialty Category A service *Évasion*

#### Term

The licence will expire 31 August 2017.

#### Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for specialty Category A services set out in *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011, as amended from time to time.
2.
  - a) The licensee shall provide a national, French-language specialty Category A service devoted entirely to tourism, adventure and travel.
  - b) The licensee may draw programming from all the program categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
  - c) The licensee shall devote at least 50% of its programming to programs of an informative nature drawn from program categories 1, 2(a), 2(b) and 5(b).
  - d) The licensee shall devote no more than 10% of each broadcast month to programming drawn from each of program categories 7(c), 7(d) and 7(e), as well as 8(b) and 8(c) combined.
  - e) The licensee shall devote no more than 10% of the broadcast year to programming drawn from program category 6(a). In addition, the licensee shall devote no more than 10% of the broadcast month to the broadcast of stick and ball sports programming, including hockey, baseball, football, basketball, golf, soccer and tennis.
  - f) The licensee shall ensure that all feature films broadcast on the service have themes related to travel and that their broadcast is limited to one feature film per week.
3. In each broadcast year, the licensee shall devote no less than 50% of the broadcast day and no less than 50% of the evening broadcast period to Canadian programming.
4. In accordance with the Commission's position on Canadian programming expenditures as set out in *New Flexibility With Regard to Canadian Program Expenditures by Canadian Television Stations*, Public Notice CRTC 1992-28, 8 April 1992, in *The reporting of Canadian programming expenditures*, Public Notice CRTC 1993-93, 22 June 1993, and in *Additional clarification regarding the reporting*

*of Canadian programming expenditures*, Public Notice CRTC 1993-174,  
10 December 1993:

- a) In each broadcast year of the licence term following the first year of operation, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 46% of the gross revenues derived from the operation of this service during the previous broadcast year.
  - b) In each broadcast year of the licence term following the first year of operation, excluding the final year, the licensee may expend an amount on Canadian programs that is up to five percent (5%) less than the minimum required expenditure for that year calculated in accordance with this condition; in such a 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.
  - c) In each broadcast year of the licence term following the first year of operation, where the licensee expends an amount on Canadian programs that is greater than the minimum required expenditure for that year calculated in accordance with this condition, the licensee may deduct:
    - i) from the minimum required expenditure for the following 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 (i) above.
  - d) Notwithstanding subsections 4(b) and 4(c), during the licence term, the licensee shall expend on Canadian programs, at a minimum, the total of the minimum required expenditures calculated in accordance with this condition of licence.
5. The licensee shall spend no more than 45% of its annual budget for producing and acquiring the rights to original Canadian programming on programs produced by itself, its corporate shareholders or affiliated companies.

### **Expectation**

The Commission expects the licensee to ensure that the programming broadcast by the service adequately reflects all of Quebec's regions, including those outside of Montréal, as well as all of Canada's regions. The Commission also expects the licensee to provide opportunities for producers working in these regions to supply programming for the service.