



Broadcasting Decision CRTC 2023-286

PDF version

Reference: Part 1 licence renewal application posted on 12 January 2023

Ottawa, 25 August 2023

Newfoundland Broadcasting Company Limited

St. John's, Newfoundland and Labrador

Public record: 2022-0869-4

CJON-DT St. John's – Licence renewal

1. The Commission has the authority, pursuant to subsections 9(1), 9.1(1) and 11.1(2) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*, and to make orders respecting expenditures.
2. Consistent with that authority, the Commission **renews** the broadcasting licence for the English-language independent conventional television programming undertaking CJON-DT St. John's, Newfoundland and Labrador, from 1 September 2023 to 31 August 2028. The Commission did not receive any interventions in regard to this application.
3. Pursuant to subsections 49(1) and 50(2) of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act*, or subsection 11.1(2) in the case of expenditure requirements. As such, the conditions of licence for this licensee became conditions of service and continue to apply to the licensee.
4. In light of paragraphs 1 and 3 above, the Commission has set out **conditions of service** for this licensee in the appendix to this decision. Further, the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. The licensee shall also adhere to any such requirements set out in the broadcasting licence for the undertaking.

Described video

5. In the current licence term, the Commission had imposed obligations in respect to accessibility of programming on licensees including CJON-DT. This included *CJON-DT – Licence amendment*, Broadcasting Decision 2020-359, 27 October 2019, where the Commission approved an application by Newfoundland Broadcasting

Company Limited to amend the condition of licence for CJON-DT relating to the provision of described video during prime time. The approved condition reads as follows:

The licensee shall provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, and/or is programming targeting preschool children (0-5 years of age) and children (6-12 years of age) with the exception of U.S. programming received without described video less than 24 hours prior to air. Such programs will be broadcast with described video for any repeat airings scheduled greater than 24 hours from delivery.

6. Paragraph 3(1)(p.1) of the *Broadcasting Act* declares that programming that is accessible without barriers to persons with disabilities should be provided within the Canadian broadcasting system, including described video services available to assist persons living with visual impairments. For the purposes of monitoring the broadcasting system and ensuring the achievement of policy objectives, the Commission may impose conditions of service on licensees regarding monitoring and reporting on programs without described video. In the Commission's view, this licensee should be subject to such a condition of service. Accordingly, and pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Newfoundland Broadcasting Company Limited, by **condition of service**, to keep reports detailing the receipt date of all U.S. programs received without described video and broadcast in prime time, including U.S. programming received without described video prior to the 24 hours exemption threshold that the licensee is required to describe, and to submit this report upon request. A template document reflecting the requirements set out in condition of service 2 will be made available for reporting purposes.
7. Under the new *Broadcasting Act*, the Commission has responsibilities to publish and consult on proposed orders. In this case, the renewal application was filed and the public proceeding held prior to the coming into force of the new *Broadcasting Act*, and interested parties had an opportunity to comment on the matters raised by the application as part of that process. Accordingly, in the circumstances, the Commission considers that these responsibilities are satisfied.

Reminder

Force and effect of broadcasting licences

8. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect should the broadcasting certificate issued by the Department of Industry (also known as Innovation, Science and Economic Development Canada) lapse.

Secretary General

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-286

Terms, conditions of service, expectations and encouragement for the English-language independent conventional television programming undertaking CJON-DT St. John's, Newfoundland and Labrador

Terms

The licence will expire 31 August 2028.

Conditions of service

1. The licensee shall adhere to the conditions of service set out in Appendix 1 in *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, with the exception of condition 14, which is replaced by the following:
 14. The licensee shall provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television, and/or is programming targeting preschool children (0-5 years of age) and children (6-12 years of age) with the exception of U.S. programming received without described video less than 24 hours prior to air. Such programs will be broadcast with described video for any repeat airings scheduled greater than 24 hours from delivery.
2. The licensee shall keep reports (including the following: air date, start and end time, duration, program title, episode title/number, first airing, U.S. airdate, delivery date, repeat airing date, and details on whether or not the episode included described video) of all U.S. programs received without described video and broadcast in prime time, including U.S. programming received without described video prior to the 24 hours exemption threshold that the licensee is required to describe. This report must be submitted upon request.
3. The licensee shall adhere to all applicable requirements set out in the *Television Broadcasting Regulations, 1987*, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.¹
4. 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

¹ Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

will maintain this designation for the duration of the licence term as long as the television station remains in operation.

5. 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.
6. 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 5.
7. The licensee shall broadcast at least seven hours of locally reflective news in each broadcast week.
8. The licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming a minimum of 27% of the previous broadcast year's gross revenues of the undertaking.
9. Subject to condition 10, the licensee may claim, in addition to its expenditures on Canadian programming:
 - (a) a 50% credit against its Canadian programming expenditure requirement for expenditures made on Canadian programming produced by an Indigenous producer and claimed as Canadian programming expenditures during that broadcast year; and
 - (b) a 25% credit against its Canadian programming expenditure requirement 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
 - ii. the programming is produced outside the province of Quebec and the original language of production is French.

10. The licensee may claim the credits calculated in accordance with condition 9 until the expenditures on Canadian programming produced by Indigenous producers and by official language minority community producers, including the credits, reach a combined maximum of 10% of the undertaking's Canadian programming expenditure requirement.
11. 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 service 8; 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 service 8.

Definitions

For the purposes of these conditions of service:

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.

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

Expectations

Standard 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.

Cultural diversity

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

Encouragement

Standard encouragement

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.