



Broadcasting Decision CRTC 2023-375

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Reference: Part 1 licence renewal application posted on 10 March 2023

Ottawa, 20 November 2023

Southshore Broadcasting Inc.
Leamington, Ontario

Public record: 2022-0899-1

CFTV-DT Leamington – Licence renewal

Summary

The Commission **renews** the broadcasting licence for the low-power, English-language independent community-based television station CFTV-DT Leamington, Ontario, from 1 January 2024 to 31 August 2028.

Application

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. Southshore Broadcasting Inc. (Southshore) filed an application to renew the broadcasting licence for the low-power, English-language independent community-based television station CFTV-DT Leamington, Ontario, which expires 31 December 2023.¹ The Commission did not receive any interventions in regard to this application.

Background

3. In Broadcasting Decision 2018-477, the Commission renewed the broadcasting licence for CFTV-DT for a short-term period due to the licensee's non-compliance with the station's conditions of licence relating to the broadcast of Canadian programming, the broadcast of local programming and the filing of annual returns.

¹ The original licence expiry date for the station was 31 August 2021. The licence was administratively renewed until 31 August 2022 as a result of Broadcasting Decisions 2021-287, until 31 August 2023 as a result of Broadcasting Decision 2022-178, and until 31 December 2023 as a result of Broadcasting Decision 2023-299.

Issues

4. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must examine the following issues:
 - the licensee's apparent non-compliance with subsection 12(1) of the *Television Broadcasting Regulations, 1987* (the Regulations) relating to the filing of annual returns;
 - the licensee's apparent non-compliance with section 18 of the Regulations relating to the implementation of the National Public Alerting System (NPAS);
 - the requirement for independent community services to provide audio description for information programs and news programming; and
 - a yearly reporting requirement regarding the licensee's multiplexed services.

Non-compliance relating to the filing of annual returns

5. Paragraph 10(1)(i) of the old *Broadcasting Act* granted the Commission the authority, in furtherance of its objects, to make regulations requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.
6. Pursuant to this authority, the Commission made subsection 12(1) of the Regulations, which requires licensees to file an annual return, including financial statements, by no later than 30 November of a given year for the broadcast year ending the previous 31 August.
7. 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, stipulates that any regulation made pursuant to paragraph 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*. Accordingly, the requirement set out in subsection 12(1) of the Regulations is considered to be a condition of service pursuant to paragraph 9.1(1)(o) of the new *Broadcasting Act*, and licensees continue to be subject to this requirement.
8. According to Commission records, the annual return for CFTV-DT for the 2018-2019 broadcast year was filed late, on 14 May 2021. In addition, the financial statements for that broadcast year were missing.
9. In response to a request by Commission staff, Southshore provided the missing financial statements for the 2018-2019 broadcast year. The licensee also noted that it had hired a broadcasting consultant to assist with timely report submissions in the future.

10. In light of the above, the Commission finds Southshore in non-compliance with subsection 12(1) of the Regulations. Given that the gravity of the non-compliance was relatively minor, that the missing information was provided, and that the licensee took steps to remedy and prevent recurrence of the non-compliance during the licence term, the Commission considers that no further action is required at this time.

Non-compliance relating to the implementation of the National Public Alerting System

11. Subsection 10(1) of the *Broadcasting Act* authorizes the Commission, in furtherance of its objects, to make regulations regarding, among other things, the broadcasting of programs. In Broadcasting Regulatory Policy 2014-444, the Commission stated that the broadcasting system has a vital role to play in the provision of emergency alert messages to Canadians and that the duty to inform the public of imminent perils is at the core of the public service obligations of all broadcasters. The provision of emergency alert messages is achieved through the National Public Alerting System (NPAS).

12. Pursuant to the authority granted by subsection 10(1) of the *Broadcasting Act*, the Commission made section 18 of the Regulations. It specifies, among other things, that except as otherwise provided under a condition of its licence, a licensee shall implement on all community stations that it is licensed to operate, by no later than 31 March 2016, a public alerting system that broadcasts without delay, on a given station, any alert that it receives, in a form including both text and audio content, from the national Alert Aggregation and Dissemination (NAAD) System that

(a) announces an imminent or unfolding danger to life; and

(b) is designated by the applicable issuing authority for immediate broadcast in all or part of the area within the station's Grade B official contour or noise-limited bounding official contour, as the case may be.

13. Southshore indicated that since 2016, which is the period of the entirety of the licence term, no automated emergency alert message distribution equipment had been installed, maintained and tested in accordance with Broadcasting Regulatory Policy 2014-444. The licensee added that it expected to come in compliance shortly.

14. In light of the above, the Commission finds Southshore in non-compliance with subsection 18 of the Regulations with respect to implementation of the NPAS for the 2018-2019, 2019-2020, 2020-2021 and 2021-2022 broadcast years.

15. Given the importance of emergency alerting to the public interest, the Commission considers it would be appropriate to impose an order requiring Southshore to implement the NPAS (that is, to install, maintain and test the system in accordance with Broadcasting Regulatory Policy 2014-444) on CFTV-DT by the end of the 2023-2024 broadcast year. Accordingly, and pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** the licensee, by **condition of service**, to

implement the NPAS on CFTV-DT by no later than **31 August 2024**. The specifics of the condition of service are set out in the appendix to this decision.

Audio description

16. In Broadcasting Regulatory Policy 2016-224, the Commission stated its intention to require independent community services to provide audio description (i.e., the voice-over of key textual, graphic design and still image elements, such as phone numbers, stock information or weather maps that are posted on the screen) for all of their information programs and news programming.
17. The Commission considers that this measure reduces barriers to information and news programming for persons with visual impairments, thereby increasing the accessibility of the broadcasting system.
18. The Commission requested information from the licensee on its capacity to provide audio description for all information programs and news programs on CFTV-DT. The licensee stated that measures have now been put in place to provide audio description and that staff is well versed in providing this service.
19. Accordingly, and pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** the licensee, by **condition of service**, to provide audio description for all of its information programs and news programming. The specifics of the condition of service are set out in the appendix to this decision.

Multiplexed services

20. The licensee is authorized to multiplex its digital television signal to provide up to four separate programming services offering the following: local community programming; French- and Spanish-language programming; programming for people with intellectual, mobility, auditory and visual disabilities; and Indigenous programming from the local Caldwell First Nation and local municipal programming.
21. Commission staff inquired whether the licensee's multiplexed services were operational since the logging data for its third and fourth multiplexed services (CFTV-DT3 and CFTV-DT4) contained no data or programming information.
22. The licensee submitted that its authorization to multiplex up to four signals is still required and that while all four signals are not operational at this time, programming is being considered for the two remaining services and it intends to launch them in the near future.
23. In the Commission's view, although the licensee has not fully implemented its authorized multiplexing of up to four signals, it has provided sufficient rationale to maintain its authorization.
24. Further, since the licensee's plans for the multiplexed channels appear to still be in the development stage, the Commission is of the view that a yearly reporting

requirement is necessary to follow the licensee's progress with respect to the multiplexed channels.

25. Accordingly, and pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** the licensee, by **condition of service**, to submit to the Commission an annual report on the progress of its multiplexed programming services and the types of programming offered. The specifics of the condition of service are set out in the appendix to this decision.

Conclusion

26. In light of all of the above, the Commission **renews** the broadcasting licence for the low-power, English-language independent community-based television station CFTV-DT Leamington from 1 January 2024 to 31 August 2028.
27. With respect to the conditions of service imposed in the decision, given that this renewal application was filed and published prior to the coming into force of the new *Broadcasting Act*, and that interested parties had an opportunity to comment on the issues of non-compliance, reporting, public alerting, and accessibility as part of that process, the Commission considers the public Part 1 proceeding sufficient to achieve the purposes of the publication and consultation requirement set out in subsection 9.1(4) of the new *Broadcasting Act* in this case.
28. 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.
29. For ease of reference, 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.

Reminders

30. The licensee must comply at all times with the Regulations.

Annual returns

31. The Commission reminds the licensee of the importance of compliance with the requirement to submit timely and duly completed annual returns each broadcast year.

NPAS requirements

32. As set out in section 18 of the Regulations, licensees have obligations relating to the broadcast of emergency alert messages received from the NAAD System. The Commission reminds the licensee that compliance with section 18 of the Regulations requires that any alert broadcast decoders (e.g., ENDEC) used for the purposes of broadcasting emergency alert messages be installed and programmed to properly account for the authorized contours of the television station.
33. The Commission also reminds the licensee that it must continue to file with the Commission, Form 1411 (Emergency alert implementation report) as part of the annual Broadcasting Survey wherein the licensee must confirm, among other things, its continued compliance with NPAS requirements and successful participation in NPAS public tests, as scheduled by the relevant alerting authorities.

Multiplexed services

34. The Commission reminds the licensee that when launched, all multiplexed services must meet the same conditions of service as the original service, including the requirement to submit accurate programming logs to the Commission.

Force and effect of broadcasting licences

35. 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

Related documents

- *Various conventional and educational television programming undertakings, community programming services, discretionary services, on-demand services and terrestrial broadcasting distribution undertakings – Administrative renewals*, Broadcasting Decision CRTC 2023-299, 29 August 2023
- *Various independent television programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2022-178, 4 July 2022
- *Various community television stations, channels and services – Administrative renewals*, Broadcasting Decision CRTC 2021-287, 13 August 2021
- *CFTV-DT Leamington – Licence renewal*, Broadcasting Decision CRTC 2018-477, 17 December 2018
- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016

- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014*

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-375

Terms, conditions of service, expectation and encouragements for the low power, English-language independent community-based television programming undertaking CFTV-DT Leamington, Ontario

Terms

The licence will expire 31 August 2028.

Conditions of service

1. The licensee shall adhere to the requirements set out in Section B of Appendix 2 to *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016. Further, the licensee shall adhere to the requirements set out in the broadcasting licence for the undertaking.
2. 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*.²
3. The licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of service will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
4. The licensee shall adhere to the Canadian Association of Broadcasters' *CAB Violence Code*, as amended from time to time and approved by the Commission.
5. The licensee shall adhere to the Canadian Association of Broadcasters' *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.
6. The licensee shall implement the National Public Alerting System (NPAS) by **31 August 2024** in order to comply with the requirements set out in section 18 of the *Television Broadcasting Regulations, 1987*, as elaborated upon in *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014.

² 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*.

As part of this requirement the licensee shall file a letter with the Commission to attest to the implementation date of the NPAS within **14 days after** the installation. This letter should also contain evidence that the system is properly configured to receive and distribute alerts from the National Alert Aggregation and Dissemination (NAAD) System (e.g. an attestation by a CEO, president or person exercising a similar supervisory role in the licensee's operations, as to the installation of a functioning alerting equipment).

7. Pursuant to *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016, the licensee shall provide audio description for all key elements of its information programs, including news programming, i.e., the voice-over of key textual, graphic design and still image elements, such as phone numbers, stock information or weather maps that are posted on the screen.
8. In regard to multiplexing the station's signal:
 - a) The licensee is authorized to multiplex its digital television signal in order to provide up to four separate programming services offering the following: local community programming, French- and Spanish-language programming, programming for people with intellectual, mobility, hearing and visual disabilities, Indigenous programming from the local Caldwell First Nation, and local municipal programming.
 - b) The licensee shall ensure that, once launched, each of the programming services referred to in a) adheres to the requirements set out in conditions of service 1 through 7 in this appendix.
9. The licensee shall submit to the Commission a yearly report by 30 November, detailing its progress with the launch of its multiplexed programming services, as well as the type of programming offered.

Expectation

Cultural diversity

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

Encouragements

Closed captioning

The Commission encourages the licensee to close caption as much programming as possible.

Citizen participation

The Commission encourages the licensee to facilitate citizen access to the production of programming and to provide training to those within the community wishing to participate in the production of programming.