



## Broadcasting Decision CRTC 2023-408

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Reference: Part 1 licence renewal application posted on 24 February 2023

Ottawa, 8 December 2023

**Télévision communautaire Frontenac**  
Montréal, Quebec

*Public record: 2022-0817-3*

### **Télévision communautaire Frontenac – Licence renewal**

#### **Summary**

The Commission **renews** the broadcasting licence for the predominantly French-language independent community programming service Télévision communautaire Frontenac from 1 January 2024 to 31 August 2028.

In addition, the Commission **approves** the licensee's request to delete its condition of service relating to closed captioning. Further, the Commission amends the expectation to that effect set out in the appendix to this decision.

Finally, the Commission **orders** the licensee, by **condition of service**, to file a report on the programming for the English-language official language minority community of Montréal, Quebec, and its surrounding areas.

#### **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. Télévision communautaire Frontenac (TCF) filed an application to renew the broadcasting licence for the predominantly French-language independent community programming service Télévision communautaire Frontenac, which expires 31 December 2023.<sup>1</sup>

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<sup>1</sup> The original licence expiry date for the service was 31 August 2021. The licence was administratively renewed until 31 August 2022 as a result of Broadcasting Decision 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.

3. TCF proposed to maintain its current conditions of licence<sup>2</sup> and expectations, with minor amendments, in order to reflect the update to the policy framework for local and community television set out in Broadcasting Regulatory Policy 2016-224.
4. TCF also proposed that the condition and expectation relating to closed captioning to which the service is subject be replaced by the standard encouragement set out in Broadcasting Regulatory Policy 2016-224.
5. The Commission received a joint intervention filed by three associations<sup>3</sup> (the intervener) that advocate for groups, producers and cultural workers belonging to an English-language official language minority community (OLMC). The intervener is of the view that TCF's commitments with respect to English-language programming are insufficient, and it considers the retention of program logs and of information allowing for the verification of these commitments to be inadequate. To remedy the situation, it proposed the imposition, as conditions of service, of three additional requirements relating to the following:
  - (a) English-language programming;
  - (b) the establishment of an advisory committee; and
  - (c) the retention of program logs and information.
6. TCF did not reply to the intervention.

### **Standard requirements**

7. The Community Television Policy is currently set out in Appendix 2 to Broadcasting Regulatory Policy 2016-224.<sup>4</sup>
8. When the licensee submitted this application, it confirmed that it would abide by the requirements for independent community services set out in Section B of Appendix 2 to Broadcasting Regulatory Policy 2016-224.
9. Accordingly, the Commission amends the condition of service relating to the Community Television Policy and, pursuant to subsection 9.1(1) of the *Broadcasting Act*, **orders** Télévision communautaire Frontenac, by **condition of service**, to adhere to the requirements for independent community services set out in Section B of Appendix 2 to Broadcasting Regulatory Policy 2016-224. The specifics of this condition of service are set out in the appendix to this decision.

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<sup>2</sup> The licensee filed its application prior to the coming into force of the *Online Streaming Act*. Under that Act, what were formerly known as conditions of licence are now deemed to be conditions of service imposed under the new *Broadcasting Act*.

<sup>3</sup> The Quebec English-language Production Council, the English-Language Arts Network and the Quebec Community Groups Network.

<sup>4</sup> The Community Television Policy was formerly set out in the appendix to Broadcasting Regulatory Policy 2010-622, as amended by Broadcasting Regulatory Policy 2010-622-1. The licensee is currently bound by a condition incorporating the former policy.

## Issues

10. 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 intervener's proposal that a condition of service relating to English-language programming be imposed;
  - the intervener's proposal that a condition of service relating to the establishment of an advisory committee be imposed;
  - the intervener's proposal that a condition of service relating to the retention of program logs and other information be imposed; and
  - the licensee's request that its condition of service 8 and the Commission's expectation relating to closed captioning be deleted and that it be made subject to the standard encouragement relating to closed captioning set out in Section B of Appendix 2 to Broadcasting Regulatory Policy 2016-224.

### English-language programming

11. In Broadcasting Decision 2015-352, the Commission approved TCF's application for a broadcasting licence to operate a new community programming service in Montréal, which became Télévision communautaire Frontenac. In the appendix to that decision, the Commission set out expectations, including those specifying that TCF:
- (a) respect its commitments to make available at least 50% of its programming to access programming and to broadcast English-language programs as of the third year of operation, up to a total of 17% of its annual production of original programming;
  - (b) reflect the various community groups in Greater Montréal; and
  - (c) consult members of the community to determine the mix, scope and types of programs that best serve the community's needs and interests through advisory boards and/or feedback from volunteers.
12. The intervener considers that maintaining TCF's current commitment regarding English-language programming (that is, up to 17% of original programming) for the next licence term is insufficient. In addition, for this programming to be proportional to the current demographic weight of Montréal's OLMC, it requested that the Commission require, by condition of service, that at least 20% of the service's total annual programming and at least 20% of its total annual original programming be in English, and that at least 20% of its programming budget be devoted to English-language programming.
13. The Commission notes that TCF, as a small independent community player, was made subject to a measure that was an expectation and not a condition of service. In addition, TCF was not subject to a requirement to submit program logs. That said, the

Commission has not received any complaints regarding TCF's English-language programming over the course of the licence term. The licensee reiterated its commitment that 17% of its annual production would be in English over the course of the next licence term. It explained that the addition of Anglophone content does not pose a challenge for its team, which is bilingual. The licensee also committed to more systematically consult with the communities served.

14. It should be noted that the levels of English-language programming broadcast by TCF and the budgets devoted to that programming depend, in part, on the members of the OLMC participating in access programming. Access programs are programs produced by members of the community served by the undertaking, with or without the licensee's assistance. The levels of English-language access programming may therefore vary over the course of the licence term according to needs and available resources.
15. That said, when it approved TCF's application for a broadcasting licence in 2015, the Commission imposed on the licensee a condition of service requiring it to devote at least 30% of its programming to access programming (as well as an expectation according to which it should make up to 50% of its programming available to access programming).
16. Accordingly, the Commission is of the view that TCF's current conditions of service relating to local and access programming, together with its commitments regarding original programming and community consultation, constitute measures that are flexible and sufficient for a small independent licensee and allowing it to ensure that the OLMC has options to access and participate in programming that reflects its needs and interests.
17. The Commission therefore considers that the intervener's proposed additional condition of service relating to TCF's English-language programming is not necessary. Further, the current expectation, set out in Broadcasting Decision 2015-352, which relates to the licensee's commitment to make up to 50% of its programming available to access programming, enlarges the potential for participation by the OLMC in TCF's programs as well as the licensee's acceptance of such program projects.
18. Further, the addition of a requirement to report on the OLMC's access programming, addressed in greater detail in the "Program logs and other information" section of this decision, will make it easier to follow up on these issues with the licensee. Finally, as the program list and the programming budgets vary according to the communities' needs and access programming participation, the Commission considers that the imposition, by condition of service, of a fixed threshold for expenses on or the broadcast of English-language programming would be burdensome for the licensee in the circumstances.

19. In light of the above, the Commission considers that the licensee's current expectation regarding original, English-language programming is, on the whole, adequate and serves the interests of the licensee as well as those of the OLMC. However, the Commission amends this expectation in order to delete the reference to the service's third year of operation. For greater certainty, the expectation that the licensee will devote up to 17% of its annual production of original programming to English-language programs will apply for the entire licence term.

#### **Establishment of an advisory board**

20. The intervener proposed that a condition be imposed on the licensee requiring it to establish an advisory committee, which must include at least one representative of the English-language OLMC and have access to any relevant data held by TCF, so as to be able to verify if the programs adequately meet the needs of the community.

21. The regulatory framework relating to community channels provides for certain requirements relating to advisory committees, but only for the community channels operated by broadcasting distribution undertakings (BDU) in markets with a population of over one million people (such as Montréal). However, this obligation only applies to community channels operated by large players with a greater reach than that of the service currently operated by TCF.

22. As TCF must devote, by condition of service, at least 30% of its programming to access programming, all communities, including the OLMC, are eligible to participate. In addition, in its application, TCF reiterated its commitment to consult community members on its programming, including by creating a new consultation group in 2023. It proposed that the Commission's current expectation regarding consultation through advisory boards be maintained. No complaints relating to TCF's consultation process were received over the course of the current licence term.

23. In light of the above, the Commission is of the view that a condition of service requiring TCF to establish an advisory committee is not necessary. Nonetheless, in order to ensure that the licensee respects its commitments regarding consultation in the Montréal market and, particularly, with the OLMC, the Commission considers that the implementation of a monitoring system that is proportional to the licensee's resources and that enables it to react in the event of any complaints would adequately support the OLMC in the circumstances. This system is addressed in greater detail in the "Program logs and other information" section of this decision.

#### **Program logs and other information**

24. In its intervention, the intervener deplored the absence of available information about TCF's programming and judged the licensee's record keeping, including the retention of program logs, to be inadequate. For this reason, the intervener proposed that a condition of service be imposed on TCF requiring it to maintain logs, minutes or other records in order to verify, on an annual basis, whether it had respected two other proposed conditions of service (English-language programming and establishment of an advisory board).

25. As the Commission will not impose the two first conditions of service proposed by the intervener, it considers that a third condition of service intended to verify compliance with these conditions, as proposed by the intervener, is not necessary.
26. However, the Commission notes that there should be a system in place allowing it to access information about the service's programming in the event of a complaint being filed, particularly in regard to the programming made by and for Montréal's English-language OLMC. In addition, as it previously explained in paragraph 23, the Commission considers it important to implement a monitoring system so as to ensure that the licensee respects its commitments regarding consultation in the Montréal market and, in particular, with the OLMC.
27. The Commission considers that the implementation of a requirement to report on programming for the OLMC and the addition of an expectation regarding the retention of audiovisual recordings, so as to be able to react in the event of a complaint, constitute measures that are adequate and proportional to the licensee's resources, in order to respond to the concerns above. The specifics of this expectation are set out in the appendix to this decision.
28. In light of the above, the Commission considers it appropriate to impose a new condition of service on the licensee requiring it to file a report on programming for the OLMC.
29. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Télévision communautaire Frontenac, by **condition of service**, to file, by no later than 30 November each year, a report outlining the measures taken to ensure the reflection, in its programming, of the English-language OLMC. The specifics of this condition of service are set out in the appendix to this decision.

### **Amendments relating to closed captioning**

30. As set out in the appendix to Broadcasting Decision 2015-352, the licensee is subject to the following condition of service and expectation regarding closed captioning:
  8. The licensee shall close caption 100% of the original French- and English-language programs broadcast during the broadcast day by the end of the licence term, with the exception of programs broadcast live, religious celebrations, station promotion and public service announcements.

The Commission expects the licensee to honour its commitment to close caption 25% of its original programming in Year 2 of its licence term, 50% in Year 3, 75% in Year 4 and 100% as of the fifth year of operation. Further, the Commission expects the licensee to close caption programs originally broadcast live when they are rebroadcast, as well as all programming from other community services, religious celebrations, station promotion and public service announcements received with closed captioning.

31. The licensee requested the deletion of this condition of service and of the Commission's expectation relating to closed captioning in order to replace them with the standard encouragement relating to closed captioning set out in Section B of Appendix 2 of Broadcasting Regulatory Policy 2016-224, which reads as follows:

The Commission encourages independent community services to caption as much programming as possible. The Commission may impose requirements for closed captioning as conditions of licence where circumstances warrant.

32. The licensee cited a lack of financial resources as justification for its request.

33. TCF is a small licensee with limited and highly variable financial resources. In the 2016-2017 through 2021-2022 broadcast years, the licensee generated highly variable revenues from one year to the next, which originated primarily from government subsidies and, to a lesser extent, infomercials. Even at their peak, these revenues were modest.

34. In 2015, the Commission imposed the above condition of licence relating to closed captioning, as proposed by TCF. However, the licensee indicated that, since 2016, it has experienced financial difficulties that it attributes to insufficient funding from BDUs.

35. The Commission notes that several other independent community services of a size comparable to or greater than TCF are subject to the standard encouragement set out above, without a condition of service. That said, TCF is unique in that it operates in a large market. The licensee, in its application, reiterated its intention to progressively increase the quantity of closed captioning during its next licence term. The Commission considers that the privilege of holding a licence in a large market and the benefits that this affords must be accompanied by firm commitments in order to adequately serve the population. Accordingly, although the circumstances do not justify the imposition of a condition of service, the licensee's current expectation, as reworded in the appendix to this decision, is, in the Commission's view, an appropriate and stronger incentive than an encouragement. The Commission also notes that it can request information from the licensee concerning its successes in this area over the course of the next licence term.

36. In light of the above, the Commission **approves** the licensee's request to delete its condition of service relating to closed captioning. In addition, the Commission has again set out the expectation in this regard in the appendix to this decision.

## **Conclusion**

37. In light of all of the above, the Commission **renews** the broadcasting licence for the predominantly French-language independent community programming service Télévision communautaire Frontenac from 1 January 2024 to 31 August 2028.

38. In regard to the conditions of service imposed at paragraphs 9 and 29, 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 relating to the Community Television Policy and the filing of information concerning the OLMC 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.
39. 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, except for those amended by this decision.
40. For ease of reference, and in light of paragraphs 9 and 29 of this decision, the Commission has set out the **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.

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
- *Policy framework for local and community television*, Broadcasting Regulatory Policy CRTC 2016-224, 15 June 2016
- *Community service in Montréal*, Broadcasting Decision CRTC 2015-352, 4 August 2015
- *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010, as amended by *Community television policy – Correction*, Broadcasting Regulatory Policy CRTC 2010-622-1, 13 September 2010

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



## Appendix to Broadcasting Decision CRTC 2023-408

### Terms, conditions of service, expectations and encouragement for the predominantly French-language independent community programming service *Télévision communautaire Frontenac* serving Montréal, Quebec, and its surrounding areas

#### Terms

The licence will expire 31 August 2028.

#### Conditions of service

1. The licensee shall provide a predominantly French-language independent community programming service to serve Montréal, Quebec, and its surrounding areas. Further, the licensee shall adhere to any requirements set out in the broadcasting licence for the undertaking.
2. The licensee shall provide its service in accordance with the conditions set out in subsections 30(1) to 30(6) of the *Broadcasting Distribution Regulations* and shall adhere to the regulatory framework for independent community services 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.
3. The licensee shall devote at least 30% of the programming aired each broadcast week to community access programming. Access programming should be scheduled in a reasonable manner throughout the broadcast day, including the peak viewing period (7 p.m. to 11 p.m.). For the purpose of this condition of service, “community access programming” is defined as programming produced by an individual, group or community television corporation residing within Montréal or its surrounding areas.
4. The licensee shall not distribute any foreign or commercial programs or major-league professional sports programs.
5. The licensee is not permitted to receive financial payment in exchange for the distribution of government or public service information material.
6. The licensee shall adhere to the following industry codes and standards:
  - the Canadian Association of Broadcasters’ *Equitable Portrayal Code*, as amended from time to time and approved by the Commission;
  - the Canadian Association of Broadcasters’ *Violence Code*, as amended from time to time and approved by the Commission;
  - the *Broadcast Code for Advertising to Children*, published by Ad Standards, as amended from time to time and approved by the Commission; and
  - *Cable television community channel standards*, Public Notice CRTC 1992-39, 1 June 1992.

7. The licensee shall adhere to the *Journalistic Independence 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 an associate in good standing of the Canadian Broadcast Standards Council.
8. The licensee shall provide audio description for all the key elements of Canadian information programs, including news programming. For the purposes of this condition of service, “audio description” refers to announcers reading aloud the key textual and graphic information that is displayed on the screen during information programs.
9. The licensee shall file, by no later than 30 November each year, a report outlining the measures it has taken to ensure the reflection, in its programming, of the English-language official language minority community (OLMC) of Montréal and its surrounding areas, including the following information on program projects received from members of the OLMC (access programming):
  - (a) the steps taken by the licensee to invite members of the OLMC to submit access program projects;
  - (b) the approved projects as well as whether the proposed program was broadcast (in which case the licensee shall provide the title of the program and the time of broadcast) or not;
  - (c) the percentage of annual original productions devoted to English-language access programs; and
  - (d) the refused requests and refusal reason.

For the purposes of these conditions of service, the term “broadcast week” shall have the same meaning as that set out in the *Broadcasting Distribution Regulations*.

### **Expectations**

The Commission expects the licensee to reflect the various community groups in Greater Montréal.

The Commission expects the licensee to consult members of the community to determine the mix, scope and types of programs that best serve the community’s needs and interests through advisory boards and/or feedback from volunteers.

The Commission expects the licensee to honour its commitment to close caption 25% of its original programming in Year 2 of its licence term, 50% in Year 3, 75% in Year 4 and 100% as of the fifth year of operation. Further, the Commission expects the licensee to close caption programs originally broadcast live when they are rebroadcast, as well as all programming from other community services, religious celebrations, station promotion and public service announcements received with closed captioning.

The Commission expects to licensee to respect its commitments to make available at least 50% of its programming to access programming and to devote up to 17% of its annual production of original programming to English-language programs.

The Commission expects the licensee to retain a clear and intelligible audiovisual recording of its programming for a period of:

- four weeks from the date of broadcast; or
- eight weeks where the Commission receives a complaint from any person regarding programming or for another reason wishes to investigate it and so notifies the licensee before the expiration of the period referred to in the previous bullet.

The licensee should provide this recording to the Commission if it so requests.

#### **Cultural diversity**

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

#### **Encouragement**

#### **Employment equity**

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity in its hiring practices and in all other aspects of its management of human resources.