



Broadcasting Decision CRTC 2005-237

Ottawa, 3 June 2005

Open Learning Agency
Burnaby, British Columbia

Application 2004-0846-0
Public Hearing in the National Capital Region
21 March 2005

Knowledge Network – Licence renewal

The Commission renews the broadcasting licence for the satellite-to-cable programming undertaking known as the Knowledge Network, from 1 September 2005 to 31 August 2008.

The application

1. The Commission received an application by the Open Learning Agency (OLA) to renew its broadcasting licence to operate the Knowledge Network (KN), a non-commercial satellite-to-cable programming undertaking offering educational programming to British Columbia. The applicant requested a three-year licence term, rather than the maximum seven-year term permitted by the *Broadcasting Act* (the Act), because the provincial government is exploring options for a new business model for KN.
2. The current licence for KN has been renewed administratively on three previous occasions, most recently, until 31 August 2005, in *Administrative renewal*, Broadcasting Decision CRTC 2005-62, 14 February 2005.

Background

3. In Broadcasting Notice of Public Hearing CRTC 2005-1, 19 January 2005, in which the Commission announced that it would hold a public hearing to consider the licence renewal application for KN, the Commission noted KN's apparent breach of the *Television Broadcasting Regulations, 1987* (the Regulations) during the 2000-2001 broadcast year.
4. During the current licence term, KN was required by condition of licence, as a satellite-to-cable programming undertaking, to adhere to the Regulations. In particular, KN was required to devote not less than 60% of the broadcast year, in any six-month period specified in a condition of licence, and not less than 50% of the evening broadcast period, to the broadcasting of Canadian programs.

5. The Commission completed analysis of KN's program logs relating to the Canadian programs broadcast during each of the broadcast years from 2000-2001 through 2003-2004. During the 2000-2001 broadcast year, KN devoted only 55.2% of the broadcast year and 47.2% of the evening broadcast period to Canadian programs. KN surpassed the requirements set out in the Regulations for the remaining years of the licence term.
6. During the 2000-2001 broadcast year, according to the Commission's logging system, the Commission disqualified 465 hours of independently produced programming aired by KN during the broadcast day that had been claimed as Canadian. Of these, 181 hours were broadcast during the evening period. This programming was disqualified because KN failed to produce the documentation required by the Commission verifying that these programs had been certified as Canadian.¹ This documentation had not been acquired by KN from the independent producers when the programs were first delivered for broadcast, in some cases many years before.
7. When faced with these disqualifications, the licensee attempted to obtain the missing documentation by various means, often by contacting the producers. However, in many cases, due to the age of the programs, producers were no longer in business or the information was otherwise no longer available.

Interventions

8. The Commission received approximately 200 interventions supporting the application for renewal and a comment from Mr. George Richards that did not address matters directly related to this application.

Commission's analysis and determination

9. The Commission has determined that, during the 2000-2001 broadcast year, OLA was in breach of sections 4(6) and 4(7)(b) of the Regulations. The Commission notes that the breach of the Regulations relates only to the programming aired during the first full year of the licence term. In all subsequent years, the licensee complied with the regulatory requirements, and the steps that it has taken to prevent recurrences of the problem appear to have been effective.
10. The Commission has assessed the circumstances pertaining to the licensee's breach of the Regulations and recognizes that the licensee made considerable efforts to obtain the missing documentation.

¹ All productions by independent producers must receive certification from the Canadian Audio-Visual Certification Office (CAVCO) of the Department of Canadian Heritage or from the CRTC confirming that they are Canadian in order to be considered as Canadian when they are broadcast. The independent producers apply to CAVCO or the CRTC for numbers to be used on broadcasters' logs submitted to the CRTC, and normally supply those numbers to the broadcasters when they deliver the programs for broadcast.

11. The Commission also recognizes that the licensee has now revised its acquisition procedures to ensure that the required documentation is obtained from producers when programs are delivered for broadcast.
12. Consequently, the Commission **renews** the broadcasting licence for the satellite-to-cable programming undertaking known as the Knowledge Network, from 1 September 2005 to 31 August 2008. The licence will be subject to the **conditions** specified in the appendix to this decision.

Other matters

Support for independent production

13. In its application, OLA described KN's role in the pre-licensing of productions from Canadian independent producers. In return for the pre-licensing of such productions, KN receives the rights to second-window broadcasts, in cooperation with first-window broadcasters such as The Discovery Channel, the Canadian Broadcasting Corporation (CBC), and Bravo!. OLA stated that it gives priority to programs developed by producers based in British Columbia.
14. OLA submitted that KN also provides facilities to independent producers in exchange for broadcast licences or equity positions in co-productions, and commissions fully financed productions. The Commission encourages OLA to increase its efforts in this area as the means and opportunities become available.

Service to persons who are blind or whose vision is impaired

15. Section 3(1)(p) of the Act states that, as part of the broadcasting policy for Canada, "programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose." Accordingly, the Commission expects all broadcasters to work toward improving the accessibility of their programming for persons who are blind or whose vision is impaired.
16. Greater programming accessibility can be achieved through the provision of audio description and/or of video description. All broadcasters can, and should, provide audio description.
17. OLA indicated that it currently provides audio description in its own productions and that narration is commonly used in the educational programs aired by KN. The Commission expects the licensee to continue to provide audio description wherever appropriate.

18. KN does not currently have the capability to use the secondary audio program (SAP) channel to make described programming accessible to persons in its audience who are blind or whose vision is impaired. OLA stated that SAP channel capability would be included as part of any digital conversion strategy it undertakes. At the next licence renewal, the Commission intends to discuss the provision of described programming with the licensee.

Service to persons who are deaf or whose hearing is impaired

19. In *Three-year licence renewal for the Knowledge Network*, Decision CRTC 99-514, 30 November 1999, the Commission encouraged OLA to close caption at least 40% of all programming aired during the broadcast day by the end of the licence term. The Commission's log analysis shows that the amount of closed captioned programming broadcast by KN increased steadily during the licence term, from 19% of all programming during the period from 1 March 2000 to 31 August 2000 to 44% of all programming during the 2003-2004 broadcast year. The Commission commends KN for its efforts in this area.
20. The licensee agreed to accept conditions of licence for the next licence term that would require that 90% of all programming aired during the peak viewing period (7 p.m. to 11 p.m.) be closed captioned by the end of the second year of the new licence term, and that 75% of all programming aired during the broadcast day be closed captioned by the end of the licence term. Given the progress made in this matter during the current licence term and the resources available to KN, the Commission considers that these levels are satisfactory. A **condition of licence** regarding closed captioning during the peak viewing period is set out in the appendix to this decision. At the time of the next renewal of the licence, the Commission will discuss with the licensee whether a condition of licence requiring the captioning of 90% of all programming would be appropriate.

Cultural diversity and on-air presence

21. The Commission expects all licensees to contribute to a broadcasting system that accurately reflects the presence in Canada of ethno-cultural minorities and Aboriginal peoples, as well as persons with disabilities. The Commission further expects licensees to ensure that the on-screen portrayal of such groups is accurate, fair and free of stereotypes. These expectations are in keeping with section 3(1)(d)(iii) of the Act, which states that the Canadian broadcasting system should, "through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society."
22. OLA pointed out that Aboriginal-themed programming is integrated throughout the KN schedule according to the program's subject matter. For instance, Aboriginal art programs are incorporated into the arts block, and Aboriginal history programs into the history block. It added that programs about other racial minorities are also incorporated into appropriate thematic sections of the schedule.

23. With respect to the fair and accurate portrayal of ethno-cultural minorities, OLA submitted that KN includes multiculturalism in its own productions, regardless of themes. It also commissions projects involving particular cultural groups. During the current licence term, KN broadcast special programming packages during Asian Heritage Month and Black History Month. OLA listed numerous programs such as “Religions of the World,” “China: The Dragon’s Ascent” and “Bollywood Bound” to reflect its commitment to cultural diversity.
24. The Commission encourages the licensee to continue its efforts in this area and, with respect to on-air presence, to ensure that its programming is reflective of Canadian society and that members of the four designated groups (women, Aboriginal persons, persons with disabilities and members of visible minorities) are presented fairly and accurately.
25. The Commission expects the licensee to develop and implement a comprehensive cultural diversity plan, and to submit it to the Commission at the time of the next renewal of the licence.

Employment equity

26. 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 issues in its hiring practices and in all other aspects of its management of human resources.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2005-237

Conditions of licence

1. The licensee shall adhere to the *Television Broadcasting Regulations, 1987*.
2. In each broadcast year beginning 1 September 2007, the licensee shall provide closed captioning for not less than 90% of all programming broadcast between 7 p.m. and 11 p.m.
3. The licensee shall adhere to the guidelines on gender portrayal set out in the Canadian Association of Broadcasters' (CAB) *Sex-role portrayal code for television and radio programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the Canadian Broadcast Standards Council (CBSC).
4. The licensee shall adhere to the guidelines on the depiction of violence in television programming set out in the CAB's *Voluntary code regarding violence in television programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the CBSC.