



Broadcasting Decision CRTC 2007-15

Ottawa, 11 January 2007

Sun TV Company (previously known as 3095531 Nova Scotia Company)
Toronto, Ontario

Application 2006-0780-7
Broadcasting Public Notice CRTC 2006-83
7 July 2006

CKXT-TV Toronto and CKXT-DT Toronto – Licence amendments

*The Commission **approves** an application by Sun TV Company (previously known as 3095531 Nova Scotia Company)¹ to amend conditions of the licences of television programming undertaking CKXT-TV Toronto and of transitional digital television programming undertaking CKXT-DT Toronto.*

Background

1. In *New television station for Toronto/Hamilton*, Broadcasting Decision CRTC 2002-81, 8 April 2002 (Decision 2002-81), the Commission approved an application by Craig Broadcast Systems Inc., on behalf of a corporation to be incorporated (Craig), for a broadcasting licence to operate an English-language over-the-air television station to serve Toronto (CKXT-TV Toronto), with an additional transmitter in Hamilton (CKXT-TV-1 Hamilton). In *CKXT-TV Toronto – transitional digital television licence*, Broadcasting Decision CRTC 2004-65, 30 January 2004, the Commission approved an application by Craig for a licence to operate a transitional digital television undertaking at Toronto (CKXT-DT Toronto), with a second transmitter at Hamilton (CKXT-DT-1 Hamilton), in association with CKXT-TV Toronto.
2. The conditions of licence for the new English-language over-the-air television station included the following condition of licence 4(a), which reflected a commitment by Craig to establish a New Voices Fund to support independently-produced ethnic programs in English:

Over the licence term, the licensee shall expend at least \$6,650,000 in licence fees for independently-produced ethnic programs in English, and at least \$725,000 for script and concept development for such programs. Administrative costs shall not be included in these amounts. The programming funded by the amounts set out in this condition shall not include any programming covered by conditions of licence 3 and 4(b). For purposes of this condition, “expend” means actual cash outlay.

¹ 3095531 Nova Scotia Company changed its name on 30 September 2005 to Sun TV Company.

3. In *CKXT-TV Toronto and CKXT-DT Toronto – Licence amendments*, Broadcasting Decision CRTC 2005-476, 3 October 2005 (Decision 2005-476), the Commission approved an application by the licensee proposing to amend the above-mentioned condition of licence. The ensuing condition of licence reads as follows:

From 2 December 2004 to 31 August 2008, the licensee shall expend at least \$4,000,000 in licence fees for independently-produced ethnic programs in English, and at least \$500,000 for script and concept development for such programs. Administrative costs shall not be included in these amounts. The programming funded by the amounts set out in this condition shall not include any programming covered by conditions of licence 3 and 4(b). For purposes of this condition, “expend” means actual cash outlay.

The application

4. The Commission received an application by Sun TV Company (previously known as 3095531 Nova Scotia Company) (Sun TV Company)² to amend the broadcasting licences of the television programming undertaking CKXT-TV Toronto and of the transitional digital television programming undertaking CKXT-DT Toronto.
5. The licensee proposed to further amend condition of licence 4(a) to read as follows:

From 2 December 2004 to 31 August 2011, the licensee shall expend at least \$3,598,000 in licence fees for independently-produced ethnic programs in English, and at least \$500,000 before 31 August 2008 for script and concept development for such programs. Administrative costs shall not be included in these amounts. The programming funded by the amounts set out in this condition shall not include any programming covered by condition of licence 4(b). For purposes of this condition, “expend” means actual cash outlay.

6. Condition of licence 4(b) of Decision 2002-81 currently reads as follows:

Over the licence term, the licensee shall expend at least \$6,650,000 on licence fees for priority programs, and at least \$675,000 for script and concept development for such programs. Administrative costs shall not be included in these amounts. The programming funded by the amounts set out in this condition shall not include expenditures on any programming covered by conditions of licence 3 and 4(a). For purposes of this condition, “expend” means actual cash outlay.

² Sun TV Company (previously known as 3095531 Nova Scotia Company) which was initially identified as Newco in Decision 2005-476, took over the licence of Toronto One (the collective name given to CKXT-TV Toronto and its transmitter CKXT-TV-1 Hamilton, and CKXT-DT Toronto and its transmitter CKXT-DT-1 Hamilton) from Craig Media Inc. (previously known as Craig Broadcasting Systems Inc.), as outlined in *Transfer of effective control of Craig Media Inc. to CHUM Limited; and Acquisition of assets – reorganization of Toronto One*, Broadcasting Decision CRTC 2004-502, 19 November 2004.

7. Sun TV Company proposed to amend this condition of licence to read as follows:

Over the licence term, the licensee shall expend at least \$9,737,000 on licence fees for priority programs. Administrative costs shall not be included in these amounts. The programming funded by the amounts set out in this condition shall not include expenditures on any programming covered by conditions of licence 3 and 4(a). For purposes of this condition, “expend” means actual cash outlay.³

8. The licensee stated that the amendments to the broadcasting licence would allow CKXT-TV Toronto (commonly known as Sun TV) to redirect approximately \$4,339,000 (\$3,751,200 from the New Voices Fund plus \$587,800 from the Priority Program Fund) to a new public affairs program to be called *Canoe Live*.
9. Sun TV Company requested that the above-mentioned amendments include CKXT-DT Toronto. In Decision 2005-476, the Commission amended condition 1 of the licence for CKXT-DT Toronto, which reads as follows:

In addition to the conditions set out below, the licence is subject to the terms and conditions applicable to the analog television station CKXT-TV Toronto, as set out in *New television station for Toronto/Hamilton*, Broadcasting Decision CRTC 2002-81, 8 April 2002, or as later amended.

10. Consequently, the proposed amendments to the conditions of licence for the broadcasting licence for CKXT-TV Toronto would also apply to the broadcasting licence for CKXT-DT Toronto.
11. The licensee indicated that it had submitted this application because its financial losses since acquiring Sun TV have been greater than anticipated and that, as a consequence, the viability of Sun TV itself was in jeopardy. It further cited the financial impact of specialty services upon national advertising and the proliferation of digitally-based platforms and new technologies. By redirecting some existing program funds to *Canoe Live*, the licensee indicated that it expected to target younger viewers and distinguish itself from its competitors.

³ This follows an amendment in *Transfer of effective control of Toronto One to TVA Group Inc. and Sun Media Corporation*, Broadcasting Decision CRTC 2004-503, 19 November 2004 (Decision 2004-503), in which the Commission accepted the proposal by TVA Group Inc. and Sun Media Corporation, on behalf of Newco, a wholly-owned subsidiary corporation to be incorporated, to add \$3,000,000 for the Priority Program Fund as a tangible benefit of the transfer of effective control of Toronto One to TVA Group Inc. and Sun Media Corporation. As defined in Decision 2004-503, the Priority Program Fund would support the production of priority programs by the Greater Toronto Area’s small and medium-sized independent producers.

Interventions

12. The Commission received one intervention in connection with this application. The Canadian Film and Television Production Association (CFTPA) expressed opposition to the licensee's proposal, stating that *Canoe Live*, the program that the licensee wishes to support with the redirected funds, would not be independently produced, and would not qualify as either an ethnic or a priority program.
13. Furthermore, the CFTPA stated that the licensee is an experienced broadcaster and that it was well aware of the obligations it was assuming when it purchased Sun TV (CKXT-TV Toronto and its transmitter CKXT-TV-1 Hamilton, and CKXT-DT Toronto and its transmitter CKXT-DT-1 Hamilton - see footnote 2 above).
14. The intervener added that Sun TV has experienced three changes of ownership since its inception, and that stability of ownership and adequate investment in programming would be the key priorities of the licensee. Finally, the CFTPA expressed the opinion that allocation of funds to *Canoe Live* is a business decision, and should not be achieved through changes to commitments and obligations. The appropriate time to discuss changes to such commitments would be a licence renewal process.

Licensee's reply

15. In reply to the CFTPA's intervention, Sun TV Company stated that, although financial losses were predicted at the time of the transfer of ownership of Sun TV, the extent and timing of the losses were greater than anticipated. The licensee indicated that this application seeks to correct an unsustainable situation, and to maintain stability of ownership and adequate investment in programming.
16. Sun TV Company asserted that priority and ethnic programming remain strong commitments for Sun TV and that the flexibility sought in this application would help with new program initiatives and in developing compelling local productions. It further argued that lowering the amounts of the two funds would not mean the removal of Sun TV's commitments and obligations, since it continues to work with many independent producers on various programming initiatives through the New Voices Fund, the Priority Program Fund, as well as Sun TV's development budget.

Commission's analysis and determinations

17. In Decision 2002-81, the Commission set out what it considered to be key characteristics of the new Toronto television station, now known as Sun TV. The first was that it would feature "ethnic programming produced in English targeted to second and third generation ethnic viewers who prefer to watch programming about their communities that is in English. This programming would serve as cross-cultural or bridge programming between the ethnocultural communities and official language groups".

18. The Commission is mindful that the amendments proposed in the current application could result in some reduction of the amount of ethnic programming that would be produced or supported by Sun TV. Funds originally earmarked for the New Voices Fund totalling \$3.75 million would be redirected to the production of *Canoe Live*, and would be spent over a longer period (eight years, instead of five years).
19. In this regard, however, the Commission notes that the *New Voices Fund* and the *Priority Program Fund* will be continued under Sun TV's conditions of licence. Sun TV would also remain subject to a condition of licence requiring that at least 20% of the Canadian acquired programming broadcast by the licensee in each broadcast week be ethnic programming.
20. The Commission notes that no independent producers of ethnic television programming intervened in connection with this application and also notes the licensee's assurance that Sun TV will continue to support independent ethnic producers.
21. Accordingly, the Commission **approves** the application by Sun TV Company to amend the broadcasting licences of the television programming undertaking CKXT-TV Toronto and its transmitter CKXT-TV-1 Hamilton, and of the transitional digital television programming undertaking CKXT-DT Toronto and its transmitter CKXT-DT-1 Hamilton, by amending conditions of licence 4(a) and 4(b), to read as follows:

4.(a) From 2 December 2004 to 31 August 2011, the licensee shall expend at least \$3,598,000 in licence fees for independently-produced ethnic programs in English, and at least \$500,000 before 31 August 2008 for script and concept development for such programs. Administrative costs shall not be included in these amounts. The programming funded by the amounts set out in this condition shall not include any programming covered by condition of licence 4(b). For purposes of this condition, "expend" means actual cash outlay.

4.(b) Over the licence term, the licensee shall expend at least \$9,737,000 on licence fees for priority programs. Administrative costs shall not be included in these amounts. The programming funded by the amounts set out in this condition shall not include expenditures on any programming covered by conditions of licence 3 and 4(a). For purposes of this condition, "expend" means actual cash outlay.

22. In addition, the Commission expects the licensee to ensure that at least 20% of all programming broadcast on *Canoe Live* will be ethnic programming, meaning programming in English that is specifically directed to any culturally or racially distinct group other than one whose heritage is Aboriginal Canadian, from France, or from the British Isles.

Secretary General

This decision is to be appended to each 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>