



## Broadcasting Decision CRTC 2009-490

Route reference: 2009-113

Additional references: 2009-70, 2009-70-1, 2009-70-2, 2009-113-1, 2009-113-2 and 2009-279

Ottawa, 14 August 2009

### Sun TV Company

Toronto, Hamilton, London and Ottawa, Ontario

*Application numbers 2009-0101-8 and 2009-0384-0, received 12 January 2009  
Public Hearing in the National Capital Region  
27 April 2009*

### CKXT-TV and CKXT-DT Toronto – Licence renewals

*The Commission **renews** the broadcasting licences for the television programming undertaking CKXT-TV Toronto and the transitional digital television programming undertaking CKXT-DT Toronto and transmitters in Hamilton, London and Ottawa, from 1 September 2009 to 31 August 2010. The licences will be subject to the terms and **conditions** in effect under the current licences, with the exception of the condition of licence relating to ethnic programming. The licences will also be subject to the amended **conditions of licence** relating to the broadcast of local and priority programming set out in this decision.*

*The Commission **approves** the request by Sun TV Company (Sun TV) to eliminate the condition of licence relating to ethnic programming as well as the expectations relating to ethnic and aboriginal programming. The Commission also relieves Sun TV of its expectation to broadcast Hamilton programming.*

*Finally, the Commission sets out its expectations with respect to the expenditure of the New Voices Fund.*

### Introduction

1. In Broadcasting Notice of Consultation 2009-113, the Commission announced that it would hold a public hearing commencing 27 April 2009 to consider various licence renewal applications for private conventional television programming undertakings. In Broadcasting Notice of Consultation 2009-70, the Commission had indicated that it would be predisposed to issue short-term licences and would focus on certain key issues, including changes to commitments relating to local programming, priority programming and independent production.

2. In Broadcasting Notice of Consultation 2009-70, the private conventional television broadcasters were directed to specify any proposed amendments to existing conditions of licence and the reasons for these amendments, as the Commission announced its intention to retain all other conditions of licence as they currently apply.
3. In this context, the Commission received applications by Sun TV Company (Sun TV) to renew the broadcasting licences for the television programming undertaking CKXT-TV Toronto and the transitional digital television programming undertaking CKXT-DT Toronto and transmitters CKXT-TV-1 and CKXT-DT-1 Hamilton, CKXT-DT-2 Ottawa and CKXT-DT-3 London.
4. Sun TV proposed the following amendments to its conditions of licence, expectations and commitments:
  - allow news to be counted towards the condition of licence to broadcast 10 hours of local programming, and increase the timeframe from the evening period to include the whole broadcast day;
  - eliminate its priority programming requirements;
  - eliminate its condition of licence requiring that at least 20% of Canadian acquired programming each broadcast week be ethnic programming;
  - eliminate the expectation that at least 20% of all programming broadcast on “Canoe Live” be ethnic programming;
  - eliminate expectations regarding the broadcast of a weekly half-hour Aboriginal newsmagazine called “Sharing Circle”, the hiring of Aboriginal reporters and the reflection of Aboriginal people in its daily news and information programming;
  - not be subject to any condition of licence relating to priority programming expenditures; and
  - not be subject to any new condition of licence relating to independent production expenditures once all of the outstanding commitments have been met.
5. As part of this process, the Commission received and considered interventions with respect to each of the applications. The public record for this proceeding is available on the Commission’s website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under “Public Proceedings.”

### **Commission’s analysis and determinations**

6. In Broadcasting Decision 2009-279, the Commission announced that it would renew the licences for the television station operated by Sun TV for a term of one year in order to allow the Commission to consider the station in the context of group-based licence renewals, applications for which will be heard at a public hearing scheduled for the spring of 2010.

7. After examining the applications in light of applicable regulations and policies, including the policy determinations announced in Broadcasting Regulatory Policy 2009-406, and taking into account the interventions received and the applicant's replies to the interventions, the Commission considers that the issues to be addressed in its determinations relate to:
- changes to local programming requirements;
  - elimination of ethnic and aboriginal programming requirements;
  - changes to priority programming requirements; and
  - issues relating to independent production.

#### **Changes to local programming requirements**

8. The Commission received several proposals relating to the appropriate level of local programming that should be broadcast by television stations operating in English-language metropolitan and non-metropolitan markets.<sup>1</sup>
9. In Broadcasting Regulatory Policy 2009-406, the Commission determined that television stations operating in English-language metropolitan markets must broadcast a minimum of 14 hours of local programming per broadcast week. Accordingly, the Commission requires, by **condition of licence**, CKXT-TV and CKXT-DT Toronto to meet this minimum level of local programming over the course of the licence term. This condition of licence replaces Sun TV's current condition of licence relating to local programming.
10. In addition to the above, the Commission expects the licensee to maintain a local presence as described in Broadcasting Regulatory Policy 2009-406.
11. The Commission notes that Sun TV has transmitters that cover the Hamilton area. In Broadcasting Decision 2004-503, the Commission stated that Sun TV's local programming should appropriately reflect the particular needs and interests of Hamilton residents and expected the new licensee to demonstrate the specific efforts it had made in this regard when it applied for the renewal of its licence.
12. In light of the financial implications that this expectation may have for Sun TV, especially at a time of economic slowdown, the Commission relieves Sun TV of any expectations relating to the broadcast of Hamilton programming for the one-year licence term.

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<sup>1</sup> The definitions of metropolitan and non-metropolitan markets are the same as those set out in Broadcasting Public Notice 2008-100. Accordingly, English-language metropolitan television markets are those television markets in which the population with a knowledge of the English language, as defined by Statistics Canada, is one million or more, whereas English-language non-metropolitan television markets are those television markets in which the population with a knowledge of the English language is less than one million.

13. The Commission notes that it will review the level of local programming in the context of the aforementioned group-based licence renewals, so as to determine whether they remain appropriate. The Commission reminds Sun TV that the above levels are only minimums and welcomes any additional local programming that Sun TV chooses to broadcast.

#### **Elimination of ethnic and aboriginal programming requirements**

14. In its applications, Sun TV requested the elimination of the condition of licence requiring that at least 20% of the Canadian acquired programming broadcast by the licensee in each broadcast week be ethnic programming. It also requested to be relieved of expectations relating to aboriginal and ethnic programming. Sun TV argued that these requirements restrict its flexibility to react to changing market circumstances.
15. The Commission notes that when it imposed requirements with respect to ethnic and aboriginal programming, Sun TV was owned and operated by Craig Broadcast Systems Inc. (Craig). The required aboriginal programming was consistent with the programming that was being aired by Craig on its other established television stations. In addition, at the time, there was only one conventional ethnic television station serving ethnic communities in Toronto. There are now two conventional ethnic television stations operating in Toronto.
16. The Commission is also mindful of the financial implications that these requirements may have for Sun TV, especially at a time of economic slowdown. In light of the above, the Commission **approves**, for the one-year licence term, Sun TV's request for the removal of its condition of licence relating to ethnic programming and the expectations relating to Aboriginal and ethnic programming. The Commission intends to revisit the provision of ethnic and aboriginal programming by Sun TV at the spring 2010 hearing.

#### **Changes to priority programming requirements**

17. Sun TV requested that its condition of licence relating to priority programming be eliminated. Sun TV is currently required to broadcast at a minimum, in each broadcast year, an average of eight hours per week of Canadian programs in the priority program categories between 7 p.m. and 11 p.m., from Monday to Sunday.
18. In Broadcasting Regulatory Policy 2009-406, the Commission set out its determinations regarding priority programming requirements applicable to conventional television stations during the short-term licence renewal periods. With respect to Sun TV, the Commission determined that the priority programming requirements may be reduced to an average of two hours per broadcast week over the broadcast year between 7:00 p.m. and 11:00 p.m. In its rationale for this reduction, the Commission noted that Sun TV is no longer part of a multi-station group or affiliated with other English-language stations with which it can share programming acquisitions and productions. However, the Commission stated that Sun TV, as a conventional television station operating in the largest market in Canada, should be required to broadcast some priority programming.

19. Accordingly, Sun TV's current **condition of licence** relating to priority programming shall be replaced with the following:

a) The licensee shall broadcast, at a minimum, in each broadcast year, an average of two hours per week of Canadian programs in the priority program categories between 7 p.m. and 11 p.m., from Monday to Sunday. As defined in *Definitions for new types of priority programs; revisions to the definitions of television content categories; definitions of Canadian dramatic programs that will qualify for time credits towards priority programming requirements*, Public Notice CRTC 1999-205, 23 December 1999 (Public Notice 1999-205) the priority program categories are:

Canadian drama programs; Canadian music and dance and variety programs; Canadian long-form documentaries; Canadian regionally-produced programs in all categories other than News and information and Sports; and Canadian entertainment magazine programs.

b) For the purpose of fulfilling the above-noted condition, the licensee may claim the new dramatic programming credit set out in Public Notice 1999-205 as amended from time to time.

c) The licensee is not entitled to claim the dramatic programming credit set out in *Certification for Canadian Programs - A revised approach*, Public Notice CRTC 2000-42, 17 March 2000.

#### **Issues relating to independent production**

20. Sun TV requested that the conditions of licence relating to the support of independent production through two funds—one specific to ethnic programming (the New Voices Fund) and one to priority programming (the Priority Program Fund)—be discontinued.
21. In light of its determinations on ethnic and priority programming for Sun TV, the Commission **approves** Sun TV's request, but expects Sun TV to consider and make use of independent producers when developing programming.
22. In Broadcasting Decision 2004-503, the Commission approved the transfer of effective control of CKXT-TV and CKXT-DT to Sun Media Corporation (the parent company of Sun TV). As part of the tangible benefits package for the transaction, Sun Media Corporation committed to add an additional \$1 million to the New Voices Fund. In the same decision, the Commission stated that it expects the New Voices Fund to be expended over a seven-year period. In a letter to the Commission dated 23 February 2009, Sun TV indicated that \$58,000 in tangible benefits remain to be expended in its New Voices Fund and that it intends to spend the outstanding funds over the next term. The Commission notes that it is renewing Sun TV's licence for a term of one year. In Broadcasting Decision 2005-476, the Commission approved amendments to the licensee's conditions of licence and stated that it is the Commission's practice to refrain from imposing conditions of licence that would apply to a subsequent licence term. In

light of the above, the Commission therefore expects the licensee to expend the remaining amount by 31 August 2010. However, if the amount is not expended by the end of the licence term, the Commission expects the licensee, at the time of the licence renewal in 2010, to accept a condition of licence that would ensure that any remaining amount is expended before 31 August 2011, in accordance with the timeline set out in Broadcasting Decision 2005-476. Finally, the Commission expects Sun TV to submit annual reports regarding the expenditure of these funds.

## Conclusion

23. In light of all of the above, the Commission **renews** the broadcasting licences for the television programming undertaking CKXT-TV Toronto and the transitional digital television programming undertaking CKXT-DT Toronto and transmitters CKXT-TV-1 and CKXT-DT-1 Hamilton, CKXT-DT-2 Ottawa, and CKXT-DT-3 London from 1 September 2009 to 31 August 2010. The licences for the undertakings will be subject to the terms and **conditions** in effect under the current licences, with the exception of the condition of licence relating to ethnic programming. The licences will also be subject to the amended **conditions of licence** relating to the broadcast of local and priority programming set out in paragraph 9 and 19 of this decision.

Secretary General

## Related documents

- *Policy determinations resulting from the 27 April 2009 public hearing*, Broadcasting Regulatory Policy CRTC 2009-406, 6 July 2009
- *Renewal of the broadcasting licences for private conventional television stations considered at the 27 April 2009 Gatineau public hearing – Initial decisions and scope of subsequent policy proceeding*, Broadcasting Decision CRTC [2009-279](#), 15 May 2009
- *Licence Renewals for Private Conventional Television Stations*, Broadcasting Notice of Consultation CRTC [2009-113](#), 3 March 2009
- *Scope of licence renewal hearings for private conventional television stations*, Broadcasting Notice of Consultation CRTC [2009-70](#), 13 February 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *CKXT-TV Toronto and CKXT-DT Toronto – Licence amendments*, Broadcasting Decision CRTC 2005-476, 3 October 2005.

- *Transfer of effective control of Toronto One to TVA Group Inc. and Sun Media Corporation*, Broadcasting Decision CRTC 2004-503, 19 November 2004
- *New television station for Toronto/Hamilton*, Broadcasting Decision CRTC 2002-81, 8 April 2002

*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>.*