



## Broadcasting Decision CRTC 2010-745

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Route reference: 2010-477

Ottawa, 7 October 2010

### **Rogers Broadcasting Limited**

Toronto, London and Ottawa, Ontario; Portage la Prairie/Winnipeg, Manitoba;  
Calgary and Edmonton, Alberta; Vancouver and Victoria, British Columbia

*Applications 2010-0885-5 and 2010-0883-9, received 27 May 2010*

### **Citytv and OMNI stations – Licence amendments**

*The Commission **denies** applications by Rogers Broadcasting Limited to reduce the overall minimum level of Canadian programming that must be broadcast by the Citytv and OMNI stations from 60% to 55%.*

#### **The applications**

1. The Commission received two applications by Rogers Broadcasting Limited (Rogers) related to the minimum levels of Canadian programming that must be broadcast by its conventional television stations.
2. In the first application, Rogers applied to amend the broadcasting licences of its television programming undertakings CITY-TV Toronto and its transmitters CITY-TV-2 Woodstock and CITY-TV-3 Ottawa, CITY-DT Toronto, CHMI-TV Portage la Prairie/Winnipeg, CKAL-TV Calgary and its transmitter CKAL-TV-1 Lethbridge, CKEM-TV Edmonton and its transmitter CKEM-TV-1 Red Deer, and CKVU-TV Vancouver and its transmitter CKVU-TV-1 Courtney (collectively, the Citytv stations).
3. Specifically, Rogers requested relief from the requirement set out in section 4(6) of the *Television Broadcasting Regulations, 1987* that a television licensee shall devote not less than 60% of the broadcast year to the broadcasting of Canadian programs. Instead the licensee proposed to adhere to the following condition of licence:

As an exception to section 4(6) of the *Television Broadcasting Regulations, 1987*, the licensee shall devote not less than 55% of the broadcast year to the broadcasting of Canadian programs.

4. In the second application, Rogers proposed to amend the broadcasting licences of its television programming undertakings CFMT-DT Toronto, CFMT-TV Toronto and its transmitters CFMT-TV-1 London and CFMT-TV-2 Ottawa, CJMT-DT Toronto, CJMT-TV Toronto and its transmitters CJMT-TV-1 London and CJMT-TV-2 Ottawa, CJCO-TV Calgary, CJEO-TV Edmonton, CHNM-DT Vancouver, and

CHNM-TV Vancouver and its transmitter CHNM-TV Victoria (collectively, the OMNI stations).

5. Specifically, Rogers proposed to replace the condition of licence relating to the broadcast of Canadian programs which reads as follows:

The licensee shall devote to the broadcast of Canadian programs:

- a) not less than 60% of the total number of hours broadcast annually between 6 a.m. and midnight;
- b) not less than 50% of the total number of hours broadcast annually between 6 p.m. and midnight.

with the following:

Beginning with the 2010-2011 broadcast year, the licensee shall devote to the broadcast of Canadian programs:

- a) not less than 55% of the total number of hours broadcast annually between 6 a.m. and midnight;
- b) not less than 50% of the total number of hours broadcast annually between 6 p.m. and midnight.

6. Rogers indicated that it was submitting the applications in order to take advantage of the additional flexibility with respect to Canadian programming announced by the Commission in *A group-based approach to the licensing of private television services*; Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010 (the Policy).
7. Rogers submitted that approval of the proposed amendment would not affect the level of Canadian programming – including original Canadian programming – broadcast during peak viewing hours. It indicated that the additional flexibility provided by the 55% Canadian programming requirement would affect only the broadcast of repeat programming. Thus, there would be no impact on the independent production sector, including the independent ethnic production sector.

## **Interventions**

8. The Commission received interventions opposing and commenting on the Rogers applications from parties that included:
  - individuals;
  - associations and unions, including the Canadian Media Production Association; the Writers Guild of Canada; the Directors Guild of Canada; the Documentary Organization of Canada; the Canadian Energy and Paperworkers Union of

Canada; and the Alliance of Canadian Cinema, Television and Radio Artists and the American Federation of Musicians; and;

- Canwest Television Limited Partnership (Canwest).
9. Opposing interveners argued that approach set out in the Policy is comprehensive and intended to come into effect on 1 September 2011. They submitted that Rogers was seeking only to implement one aspect of the Policy – a reduction in the overall level of Canadian programming – without assuming other aspects, such as a minimum level of spending on Canadian programming.
  10. Opposing interveners also argued that Rogers had failed to provide sufficient grounds for approval of its applications.
  11. In its comment, Canwest stated that, if the Commission were to approve the applications, it should also afford the same flexibility to other competing broadcasters.

#### **Applicant's reply**

12. Rogers disagreed with the contention that all elements of the Policy should take effect on 1 September 2011 after the Commission has considered the licence renewal applications of the applicable corporate groups. Rogers indicated that it was simply seeking to implement an established policy by way of condition of licence until such time as the Commission amends its regulations. Rogers further submitted that any financial benefit derived from approval of the applications would have a direct and positive impact on Canadian programming expenditures for the 2011-2012 broadcast year, since those expenditures would be based, in part, on 2010-2011 broadcast revenues.
13. Rogers also argued that it was not necessary for it to present additional grounds for approval since the applications are in accordance with the Policy.

#### **Commission's analysis and determinations**

14. The Commission is of the view that approach set out in the Policy is comprehensive and meant for implementation with the group renewals of the large television broadcasters. It considers that it would not be appropriate to implement the Policy on a piecemeal basis, for example by approving a reduction in Canadian programming without imposing expenditure requirements, as set out in the Policy. It is also of the view that it would be unfair to implement aspects of the Policy for some licensees without similar action for competitors.
15. The Commission further notes that Rogers has not provided evidence of the financial necessity required to make the proposed changes a year in advance of their anticipated effective date.

16. For these reasons, the Commission **denies** the applications by Rogers Broadcasting Limited to reduce the overall minimum level of Canadian programming that must be broadcast by the Citytv stations and the OMNI stations from 60% to 55%.

Secretary General