Canadian Radio-television and Telecommunications Commission
Conseil de la radiodiffusion et des télécommunications canadiennes

Broadcasting Decision CRTC 2018-291

PDF version

References: Part 1 licence renewal applications posted on 27 November 2017

Ottawa, 21 August 2018

8946337 Canada Limited and Blue Ant Media Solutions Inc., partners in a general partnership carrying on business as Blue Ant Television General Partnership
Across Canada

8946337 Canada Limited and Blue Ant Media Solutions Inc., partners in a general partnership carrying on business as Blue Ant Television General Partnership, and SN Channel ULC, partners in a general partnership carrying on business as SN Channel General Partnership
Across Canada

Public record for these applications: 2017-0841-3 and 2017-0842-1

Blue Ant – Discretionary services – Licence renewal

The Commission ***renews*** *the broadcasting licences for the national, English-language discretionary services A.Side, BBC Earth, Cottage Life, HIFI, Love Nature, Makeful, T + E and Smithsonian Channel from 1 September 2018 to 31 August 2023.*

Applications

1. 8946337 Canada Limited and Blue Ant Media Solutions Inc., partners in a general partnership carrying on business as Blue Ant Television General Partnership and 8946337 Canada Limited and Blue Ant Media Solutions Inc., partners in a general partnership carrying on business as Blue Ant Television General Partnership, and SN Channel ULC, partners in a general partnership carrying on business as SN Channel General Partnership, (collectively, Blue Ant) filed applications to renew the broadcasting licences for the national, English-language discretionary services A.Side, BBC Earth, Cottage Life, HIFI, Love Nature, Makeful, T + E and Smithsonian Channel. The current licences expire 31 August 2018.

2. Blue Ant proposed to maintain a modified group-based licensing approach over the next licence term and proposed amendments to some of its conditions of licence. The applicant confirmed that it would adhere to the standard conditions of licence for discretionary services set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436, with the exception of the requirement pertaining to the provision of programming in higher resolutions.

3. The Commission received interventions in support of the applications as well as comments, to which the applicant replied.

Commission’s analysis and decisions

4. After examining the public record for these applications in light of applicable regulations and policies, the Commission considers that it must address the following issues:

   - whether Blue Ant should continue to operate under a modified group-based licensing approach;
   - Canadian programming expenditures (CPE);
   - expenditures on programs of national interest (PNI);
   - independent production expenditures;
   - programming in higher resolutions;
   - implementation of the standard condition of licence relating to exhibition requirements for T + E and Cottage Life; and
   - non-compliance.

Modified group-based licensing approach

5. Blue Ant proposed to maintain a modified group-based licensing approach over the next licence term.

Commission’s analysis and decision

6. In Broadcasting Regulatory Policy 2010-167 (the Group-based Policy), the Commission adopted a group-based licensing approach for certain licensees. Ownership groups operating under this approach receive the flexibility to meet various expenditure requirements as a group rather than as individual services but also operate under additional obligations, such as expenditures on PNI.

7. While initially applied only to the largest broadcasting ownership groups, the Commission stated that, in principle, a modified group-based approach with the associated flexibility could apply to other ownership groups and that it would consider such proposals.

8. In Broadcasting Decision 2013-465, the Commission determined that a modified group-based licensing approach for Blue Ant was appropriate as it would:

   - foster a diversity of voices in the Canadian broadcasting system;

- support a diversity of programming choices for Canadians; and
- take into account Blue Ant's smaller size and scale and its unique circumstances.

9. In that decision, the Commission also made determinations regarding Blue Ant's CPE, PNI, terms of trade, qualifying in-house productions as independently produced programming and Canadian programming exhibition levels. As a result of the application of the modified approach, Blue Ant benefitted from the flexibility to meet various expenditure requirements as a group rather than as individual services. The Commission stated that licensing and regulation, particularly in regards to smaller independent services, should be as flexible, responsive and targeted as possible.

10. The Commission is of the view that a modified group-based licensing approach would continue to benefit Blue Ant, particularly given the increasingly competitive broadcasting environment and the flexible policy environment in which its services will be operating.

11. In light of the above, the Commission determines that a modified group-based licensing approach for Blue Ant remains relevant and appropriate as well as consistent with the Commission's past determinations.

Canadian programming expenditures

12. Blue Ant proposed a standardized CPE level of 21% of the previous year's revenues for each of the eight discretionary services within its group. It indicated that the level represents the weighted average of the current CPE requirements for each of its discretionary services. It also requested conditions of licence granting a 25% credit for productions made by official language minority community (OLMC) producers and a 50% credit for productions made by Indigenous producers. Blue Ant noted that similar conditions were granted to the large broadcast ownership groups during their last licence renewal.

Interventions

13. The Canadian Media Producers Association (CMPA) submitted that Blue Ant's CPE should be based on the group's historical levels. Specifically, the CMPA requested that the Commission impose either a group CPE or an effective group CPE (i.e. a standard CPE for each of the individual services) of 30% of the previous year's gross revenues. The CMPA argued that Blue Ant has spent an average of 30.9% of the previous year's gross revenues on CPE and that if the Commission were to approve a 21% CPE level as requested by the applicant, it would represent a significant decrease in expenditures on Canadian programs.

14. The Writers Guild of Canada (WGC) did not propose a specific CPE level but indicated that both the Commission and broadcasters should consistently strive to increase and improve investments in Canadian programming. WGC submitted that the Commission should set a CPE requirement as a percentage of revenues based on

the group's historical spending levels, or 10%, whichever is greater. WGC argued that anything less than a percentage based on historical levels for CPE, for any licensed service, is contrary to Broadcasting Regulatory Policy 2015-86 and is inconsistent with the *Broadcasting Act* (the Act).

15. The Alliance of Canadian Cinema, Television and Radio Artists and the Directors Guild of Canada (ACTRA and DGC) submitted a joint intervention in which it proposed a 25% CPE level and indicated that this level takes into consideration:

- the need to maximize resources for the production of Canadian programming;
- the level imposed on the large broadcast ownership groups; and
- the mix of licences for Blue Ant.

16. They argued that the amount to be spent on Canadian programs would reflect the lower revenues of Blue Ant compared to other private broadcasters and it would vary according to the trends in the revenues over the licence term. ACTRA and DGC suggested that the level could be imposed gradually over the licence term given that Blue Ant has no conventional television stations.

17. Further, ACTRA and DGC indicated that, if Blue Ant's CPE is set at 25%, they would support Blue Ant's request for CPE credits for productions made by OLMC producers and by Indigenous producers. On Screen Manitoba supported the CPE credit initiative without restrictions.

Blue Ant's reply

18. Blue Ant stated that it made significant programming investments to rebrand many of its services and invested in the launch of the 4K version of its Love Nature service. Blue Ant argued that the investments were necessary to rejuvenate its services but pointed out that they were temporary, not sustainable and should not be used as a reason to increase its minimum CPE requirement.

19. Blue Ant specified that its proposed 21% CPE level is a floor and not a ceiling and that it will continue to strive to spend more on domestic production. Further, Blue Ant pointed out that it should not be penalized for exceeding the regulatory requirements in Canadian programming investment over the current licence term, as this would act as a major disincentive for Blue Ant and other Canadian broadcasters to do so in the future.

20. Regarding the CMPA's proposal, Blue Ant argued that the standardized 30% CPE level was already established by the Commission for the larger broadcast groups when Blue Ant submitted its initial proposal in 2013 to become a group. Blue Ant submitted that, at the time, the Commission decided not to impose a 30% CPE requirement as Blue Ant did not provide news, sports or other big budget productions. Moreover, Blue Ant noted that the Commission determined in Broadcasting Regulatory Policy 2015-86 that it would maintain existing expenditure levels.

21. Finally, Blue Ant stated that Bell and Corus proposed to reduce their CPE requirements for their English-language services from 30% to 28% in the submissions they filed to update their licence renewal applications as a result of Order in Council P.C. 2017-1060. Blue Ant indicated that it would be inappropriate to expect it to abide by a CPE level that is on par with or would potentially surpass those of the large broadcast ownership groups.

Commission's analysis and decision

22. Since the elimination of genre exclusivity announced in Broadcasting Regulatory Policy 2015-86, discretionary services are no longer tied to a specific type of programming. Further, all of the discretionary services within a designated group are subject to standardized requirements. Accordingly, the Commission considers that applying the same CPE requirement to all services within the Blue Ant group is appropriate and would be consistent with the Commission's policy. Further, a standardized CPE requirement would allow Blue Ant to compete and adapt in a competitive marketplace by being able to take full advantage of the flexibilities of the policy. Most importantly, it would also allow Blue Ant to ensure that its group collectively contributes to the creation of Canadian programming at an appropriate level.

23. Blue Ant has shown a willingness to outspend its CPE requirements of 21%, having spent an average of 24.5% of the previous years' revenues over the 2014-2017 period. The Commission considers that maintaining Blue Ant's current CPE requirement would provide Blue Ant with additional flexibility, would maintain the minimum levels of expenditure to which Blue Ant has been required to adhere, while acknowledging that its programming acquisition strategy may cause it to overspend at certain points in the coming licence term.

24. In light of the above, the Commission considers that a 21% CPE requirement for the group is appropriate. Accordingly, **conditions of licence** reflecting this determination are set out in Appendix 2 to this decision.

25. With respect to the CPE credits for OLMC and Indigenous productions requested by Blue Ant, the Commission considers that they would represent positive measures to foster the access of under-represented groups to the broadcasting system.

26. Accordingly, the Commission considers it appropriate to encourage the reflection of Indigenous peoples in the broadcasting system. Specifically, the licensee will receive a 50% credit towards its CPE requirements for expenditures on Canadian programming produced by Indigenous producers, up to a maximum (expenses plus credit) of 10% of the licensee's overall CPE requirement when combined with the credit discussed below regarding OLMC reflection. Only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit.

27. The Commission is also of the view that a similar credit could encourage greater onscreen reflection of OLMCs in the broadcasting system. Consequently, the licensee

will receive a 25% credit against its CPE requirements for expenditures on Canadian programming produced by OLMC producers, up to a maximum (expenses plus credit) of 10% of the licensee's overall CPE requirement when combined with the credit on Indigenous reflection. Once again, only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit. Further, the OLMC producer must be an independent producer as defined by the Commission[1] and (i) if in the province of Quebec, the original language of the production must be English or (ii) if outside the province of Quebec, the original language of the production must be French.

28. Accordingly, **conditions of licence** reflecting these determinations are set out in Appendix 2 to this decision.

Expenditures on programs of national interest

29. Blue Ant proposed to maintain its expenditure level for PNI[2] at 13.5% of the previous year's revenues. It submitted that this level continues to be appropriate based on its historical expenditures over the current licence term.

Interventions

30. The CMPA suggested that PNI should be based on historical levels and that the amount should therefore be equal to or higher than the current PNI requirement of 13.5%. It proposed a level closer to what it considered to be Blue Ant's actual historical expenditures of 16.8% over the past three years. The WGC also submitted that PNI levels should be set at historical spending levels.

31. ACTRA and DGC both welcomed and supported Blue Ant's offer to continue to spend a minimum of 13.5% of its gross revenues on PNI and noted that Blue Ant's PNI expenditure level is higher than that of the large broadcast ownership groups.

Blue Ant's reply

32. Blue Ant indicated that the PNI expenditures are reported on a "cash commitment basis," while the amounts in its annual returns are reported on an amortized basis. Blue Ant argued that the PNI reports do not represent a true depiction of Blue Ant's PNI spending for regulatory compliance purposes.

33. Blue Ant maintained that a 13.5% PNI requirement is consistent with its historical expenditures and requested that the same level be maintained in the upcoming licence term. Blue Ant further explained that in the first few years of its current licence term, it opted to make significant cash outlays to rebrand and relaunch most of its services.

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[1] See definition found in Appendix 2 to this decision.

[2] In the English-language market, PNI are defined as programming from program categories 2(b) Long-form documentary and 7 Drama and comedy, as well as certain Canadian award shows.

Blue Ant argued that the expenditures were based on business imperatives and should not be used to justify raising the PNI expenditure level.

34. Blue Ant indicated that if the Commission were to raise its PNI level to 16.8% as suggested by the CMPA, it would:

- result in the group spending over three times more on PNI than is currently required of the large broadcast ownership groups;
- significantly impede its business decisions in terms of programming and its ability to remain nimble enough to meet audience demands; and
- be very short sighted and not sustainable in the long run or beneficial for the Canadian broadcasting system as a whole.

Commission’s analysis and decision

35. As set out in Broadcasting Decision 2013-465, since the third year of the current licence term, Blue Ant has been required to spend 13.5% of the previous year’s gross revenues on PNI.

36. Although Blue Ant’s PNI requirement for 2016 was 13.5%, the requirement was ramped up through 2014 and 2015. Therefore, the effective requirement from 2014 to 2017, that is, the average of its PNI requirements over this period was 12%, and not 13.5%. In terms of actual PNI expenditures net of tangible benefits, Blue Ant has spent 12.4% of previous years’ revenues over this period, more than the average requirement of 12%.

37. Blue Ant’s PNI contributions are relatively high in comparison to most other services operating in the English-language market and Blue Ant has built its programming strategies in line with these spending requirements. Increasing its requirements would, in effect, punish good behaviour by requiring additional expenses and, potentially, force Blue Ant to alter its overall broad programming strategy, thereby affecting its competitive position in the market.

38. Accordingly, the Commission considers it appropriate to maintain the 13.5% PNI expenditure requirement for Blue Ant. A **condition of licence** to that effect is set out in Appendix 2 to this decision.

Independent production expenditures

39. Blue Ant requested that the existing condition of licence relating to the exhibition of independent production be maintained. It argued that the large broadcast ownership groups have historically spent extensively on independent production for their conventional television stations. For its part, Blue Ant is a smaller independent broadcaster and does not own any conventional television stations.

40. During the proceeding, Blue Ant was asked about the possibility of replacing its current condition of licence with ones that would be based on expenditures rather than on exhibition. According to Blue Ant, such a change would be inappropriate as it would exceed the requirement imposed on the large broadcast ownership groups. If, for example, the Commission were to require Blue Ant to devote 25% of its required CPE toward independent productions, it would exceed the requirement imposed on the large broadcast ownership groups. Those groups have expenditure requirements calculated as a percentage of PNI, which constitutes a small fraction of their required CPE.

41. Moreover, Blue Ant noted that in its last renewal, the Commission had stated that it would be inappropriate to expect smaller independently owned discretionary services to make expenditures on Canadian programming that are greater than those made by the larger broadcast ownership groups.

42. Blue Ant requested that the Commission allow Blue Ant to continue to operate with its current condition of licence. According to Blue Ant, this would provide its modified group with the flexibility to allocate its CPE in the most effective manner to ensure the ongoing attractiveness of its services to viewers and broadcasting distribution undertakings.

43. However, if the Commission were to impose an expenditure requirement, Blue Ant stated that it would be prepared to accept that 10% of its PNI expenditures be allocated to independent producers.

Interventions

44. ACTRA, DGC and the CMPA indicated that the Commission should impose an independent production condition of licence based on a percentage of Blue Ant’s PNI expenditures. ACTRA and DGC requested that the level be set at 75% of PNI expenditures, while the CMPA requested 60%.

45. The CMPA strongly opposed Blue Ant’s 10% proposal as it explained that it would represent only 1.35% of the group’s previous year’s gross revenues. According to the CMPA, this amount would fail to uphold the objectives of Canada’s broadcasting policy in relation to independent production as well to the group-based approach in Broadcasting Regulatory Policy 2010-167 and Broadcasting Regulatory Policy 2015-86. The CMPA therefore proposed that at least 60% of PNI expenditures be allocated to original, first-run programs from independent producers. In its view, imposing a condition of licence that is less than the one imposed on the large broadcast ownership groups strikes the correct balance.

46. Finally, the CMPA proposed that the Commission review its definition of “independent production company” to ensure that programs which fulfill independent production expenditure requirements are truly independently produced. The CMPA proposed a definition and suggested that it should be imposed on Blue Ant.

Blue Ant's reply

47. According to Blue Ant, ACTRA, DGC and CMPA failed to realize that the only PNI that Blue Ant broadcasts are long-form documentaries. In its view, an exhibition requirement that extends across all Canadian programs broadcast may be more beneficial to independent producers rather than an expenditure model based just on PNI.

48. Moreover, Blue Ant noted that the large broadcast ownership groups have requested a decrease to the percentage of expenditures dedicated to independent producers as a result of Order in Council P.C. 2017-1060. Blue Ant noted that if these proposals were approved, Rogers would be required to allocate 1.25% of its previous year's gross revenues to independent producers while Bell Media and Corus would each be required to allocate 3%. Blue Ant indicated that this would mean that the percentage imposed by its condition of licence would in fact be higher than Rogers.

Commission's analysis and decision

49. Section 3(1)(i)(v) of the Act states that the programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector.

50. The Commission has in the past used exhibition requirements as one of the means of achieving the Act's objectives relating to the creation and presentation of Canadian programming and the use of Canadian creative and other resources. However, in Broadcasting Regulatory Policy 2015-86, the Commission stated that exhibition quotas can, among other things, have unintended detrimental effects. Specifically, exhibition requirements encourage repeating programming on the same service or "recycling" it from other services. The Commission determined in that policy that expenditures on original Canadian productions add more value to the system and that excessive repetition and recycling of programming does little to achieve the objectives of the Act.

51. As an independent producer, Blue Ant would benefit from the synergies created with its services and would be better able to monetize its own productions. That flexibility would help Blue Ant contribute to achieving the policy objectives outlined in section 3(1)(i)(v) of the Act. Unduly limiting Blue Ant's use of its own content could have negative consequences on its ability to sustain production in Canada.

52. The Commission is of the view that Blue Ant's independent production obligations should be based on expenditures rather than on exhibition. However, its conditions of licence should reflect that Blue Ant itself is an independent producer and that it is smaller in size compared to the large broadcast ownership groups.

53. Based on its analysis of Blue Ant's historical expenditures on independent production, the Commission considers that a requirement that 25% of its PNI expenditures be made to an independent production company would be consistent

with its past expenditures. A **condition of licence** to that effect is set out in Appendix 2 to this decision.

54. With respect to the CMPA's proposal to revise the definition of independent production company, a request the CMPA has made in several past proceedings, the Commission considers that it would be inappropriate to impose a new definition on Blue Ant only and that this proposal would best be considered as part of a larger policy review.

Programming in higher resolutions

55. Blue Ant requested a condition of licence that would provide an exception to the standard condition of licence relating to high definition (HD) programming. Specifically, Blue Ant asked for authorization to broadcast multiple versions of its programming in 4K as well as other higher resolution versions. However, because the standard condition of licence that permits discretionary services to provide programming in HD presumes that the main version of a service will be in standard definition and was drafted prior to the availability of 4K or other higher resolutions, it does not explicitly contemplate a service that is either originally launched in HD or that provides a 4K or other higher resolution version of its service, nor does it address multiple versions of a service in different resolutions (e.g. HD, 4K, 8K, etc.).

56. While the Commission agrees with Blue Ant's proposal in principle, it is concerned that the specific condition of licence Blue Ant proposed may not be the best approach. The term "high definition" is not defined in either the standard conditions of licence or the *Discretionary Services Regulations*. However, the term is defined in the *Broadcasting Distribution Regulations* as "a television signal that consists of ***at least*** 1,280 vertical lines of resolution and 720 horizontal lines of resolution [***emphasis added***]." Given the close link between distribution and programming services and the lack of a definition elsewhere, in the Commission's view, the best approach to giving Blue Ant the authority it has requested would be to build on this definition. Since the term high definition already includes signals with greater resolution, in the Commission's view, this term can be used to apply to 4K, 8K or other higher resolutions.

57. The Commission will therefore provide an exception to standard condition of licence 19 as set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436 for Blue Ant through the following condition of licence:

> The licensee is authorized to make available for distribution standard definition and high definition versions of its service, provided that not less than 95% of the video and audio components of the high definition and standard definition versions of the service are the same, exclusive of commercial messages and of any part of the service carried on a subsidiary signal. Further, all of the programming making up the 5% allowance shall be provided in high definition.

58. The above **condition of licence** is set out in Appendix 2 to this decision.

Implementation of the standard condition of licence relating to exhibition requirements for T + E and Cottage Life

59. Blue Ant requested that the implementation of the standardized 35% exhibition requirement for Canadian programming for its two Category A services (Cottage Life and T + E) be imposed upon issuance of the renewal decision rather than at the start of the next licence term (1 September 2018). In return, Blue Ant indicated that it would forego mandatory carriage for these services.

60. Currently, Cottage Life is required to devote not less than 80% of the broadcast day and not less than 50% of the evening broadcast period to the broadcast of Canadian programs. T + E is required to devote not less than 60% of the broadcast day and not less than 50% of the evening broadcast period to the broadcast of Canadian programs.

61. In Broadcasting Regulatory Policy 2015-86, the Commission determined that certain policies such as the implementation of the 35% exhibition requirement and the removal of access privileges would be implemented as discretionary services renew their licences. These amendments are meant to take place in conjunction with new CPE requirements that will be put in place for all discretionary services that were previously not required to make any commitments to spending on Canadian programming.

62. In light of the publication date of the decision, the head start requested by Blue Ant would be minimal. The Commission will therefore not advance the implementation date for the condition of licence relating to the exhibition of Canadian programming.

Various licence amendment requests

63. In addition to the above, Blue Ant requested various minor licence amendments. These requests relate to updates to regulations and Commission policies and, accordingly, do not raise any concerns. These are reflected in the conditions of licence set out in Appendix 2 to this decision.

Non-compliance

64. Section 8(1) of the *Specialty Services Regulations, 1990*, required licensees to file an annual return by 30 November of each year for the broadcast year ending the previous 31 August. Blue Ant filed financial statements for broadcast years 2013-2014, 2014-2015 and 2015-2016 that were not audited. Further, these statements were filed late.

65. Blue Ant submitted that the late filing of the unaudited financial statements was due to human error. It stated that it has put procedures in place to ensure that the unaudited financial statements will be filed at the same time as the annual returns and that the audited consolidated financial statements for all of their Canadian and international holdings will be filed as soon as they become available. The licensee provided audited financial statements once it received the Commission’s request.

66. Accordingly, the Commission finds Blue Ant in non-compliance with section 8(1) of the *Specialty Services Regulations, 1990*. However, the Commission is satisfied with the measures taken by Blue Ant to address the situation.

67. The Commission reminds Blue Ant that the timely filing of complete annual returns, including financial statements, are fundamental to the Commission's ability to monitor a licensee's compliance with regulatory requirements and conditions of licence.

Conclusion

68. In light of all of the above, the Commission **renews** the broadcasting licences for the national, English-language discretionary services A.Side, BBC Earth, Cottage Life, HIFI, Love Nature, Makeful, T + E and Smithsonian Channel from 1 September 2018 to 31 August 2023. The terms and **conditions of licence** for these services are set out in Appendix 2 to this decision.

Reminders

69. Section 8 of the *Discretionary Services Regulations* requires, among other things, that except as otherwise provided under a condition of its licence, a licensee shall provide to the Commission, within 30 days after the end of each month, the program log or record of its programming for the month.

70. The Commission reminds the licensee that the program logs must be accurate and must be kept in a form that is acceptable to the Commission.

Secretary General

Related documents

- *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016

- *Let's Talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015

- *Various specialty Category A and B services – Licence renewals and modified group-based licensing approach*, Broadcasting Decision CRTC 2013 465, 30 August 2013

- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010 167, 22 March 2010

- *The reporting of Canadian programming expenditures*, Public Notice CRTC 1993-93, 22 June 1993

This decision is to be appended to each licence.

Appendix 1 to Broadcasting Decision CRTC 2018-291

Services for which the broadcasting licences have been renewed in this decision and that form part of the Blue Ant Group for the purposes of group-based licensing

Name of discretionary service	Licensee
A.Side	8946337 Canada Limited and Blue Ant Media Solutions Inc., partners in a general partnership carrying on business as Blue Ant Television General Partnership
BBC Earth	
Cottage Life	
HIFI	
Love Nature	
Makeful	
T + E	
Smithsonian Channel	8946337 Canada Limited and Blue Ant Media Solutions Inc., partners in a general partnership carrying on business as Blue Ant Television General Partnership, and SN Channel ULC, partners in a general partnership carrying on business as SN Channel General Partnership

Appendix 2 to Broadcasting Decision CRTC 2018-291

Terms, conditions of licence, expectations and encouragements for the national, English-language discretionary services A.Side, BBC Earth, Cottage Life, HIFI, Love Nature, Makeful, T + E and Smithsonian Channel

Terms

The licences will take effect 1 September 2018 and expire 31 August 2023.

Conditions of licence

1. The licensee shall adhere to the conditions set out in the broadcasting licence for the undertaking as well as the conditions of licence set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, with the exception of conditions of licence 17 and 19, which are replaced by the following:

    17. The licensee shall, by 1 September 2019, provide described video for all English- and French-language programming that is broadcast during prime time (i.e., from 7 p.m. to 11 p.m.) and that is drawn from program categories 2(b) Long-form documentary, 7 Drama and comedy, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television and/or is targeting preschool children (ages 0-5) and children (ages 6-12).

    19. The licensee is authorized to make available for distribution standard definition and high definition versions of its service, provided that not less than 95% of the video and audio components of the high definition and standard definition versions of the service are the same, exclusive of commercial messages and of any part of the service carried on a subsidiary signal. Further, all of the programming making up the 5% allowance shall be provided in high definition.

2. The licensee shall devote at least 35% of all programming broadcast during the broadcast day to the exhibition of Canadian programs.

3. In accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming a minimum of 21% of the previous year's gross revenues of the undertaking.

4. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more undertakings from the Blue Ant Group in the same broadcast year towards fulfilling the requirement in condition of licence 3 as long as these expenditures are not used by those undertakings towards fulfilling their own Canadian programming expenditure requirements.

5. Subject to condition 6, the licensee may claim, in addition to its expenditures on Canadian programming:

    a. a 50% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an Indigenous producer and claimed as Canadian programming expenditures during that broadcast year;

    b. a 25% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an official language minority community producer and claimed as Canadian programming expenditures during that broadcast year. The licensee may claim the credit if:

        i. the programming is produced in the province of Quebec and the original language of production is English; or

        ii. the programming is produced outside the province of Quebec and the original language of production is French.

6. The licensee may claim the credits calculated in accordance with condition 5 until the expenditures made on Canadian programming produced by Indigenous producers and by official language minority community producers, including credits, reach a maximum of 10% of the Canadian programming expenditure requirement for the Blue Ant Group.

7. The licensee shall, in each broadcast year, devote to the acquisition of or investment in programs of national interest at least 13.5% of the previous year's gross revenues of the undertaking.

8. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more undertaking from the Blue Ant Group in the same broadcast year towards fulfilling the requirement set out in condition 7 as long as these expenditures are not used by those undertakings towards fulfilling their own expenditure requirement regarding programs of national interest.

9. At least 25% of the expenditures in condition 7 must be made to an independent production company.

10. In regard to expenditures on Canadian programming and/or programs of national interest:

    (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions 3 and 7 respectively; in such case, the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year’s under-expenditure.

(b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.

(c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming and programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions 3 and 7.

11. In the two years following the end of the previous licence term, the licensee shall report and respond to any Commission enquiries relating to the expenditures on Canadian programming, including programs of national interest, made by the licensee and by the Blue Ant Group for that term.

12. The licensee is responsible for any failure to comply with the requirements relating to expenditures on Canadian programming, including programs of national interest, that occurred during the previous licence term.

Definitions

For purposes of these conditions:

“Blue Ant Group” means the group of undertakings set out in Appendix 1 to *Blue Ant – Discretionary services – Licence renewal*, Broadcasting Decision CRTC 2018-291, 20 August 2018.

“Independent production company” means a Canadian company (i.e., a company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians) whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

“Indigenous producer” means an individual who self-identifies as Indigenous, which includes First Nations, Métis or Inuit, and is a Canadian citizen or resides in Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and are Canadian citizens or reside in Canada. In regard to the definition of “independent production company,” “Canadian” includes a person who self-identifies as Indigenous and resides in Canada, whereas “Canadian company” includes a production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and reside in Canada.

“Official language minority community producer” means a company that meets the definition of “independent production company” and that:

a) if operating in the province of Quebec, produces original English-language programming, or

b) if operating outside the province of Quebec, produces original French-language programming.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.

Encouragements

The standard encouragements applicable to this licensee is set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.