



Broadcasting Decision CRTC 2020-212

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Reference: Part 1 licence renewal application posted on 31 January 2020

Ottawa, 3 July 2020

World Fishing Network ULC

Across Canada

Public record for this application: 2019-1020-9

Sportsman Canada – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language discretionary service Sportsman Canada from 1 September 2020 to 31 August 2025.*

Application

1. The Commission has the authority, pursuant to section 9 of the *Broadcasting Act* (the Act), to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-192, which listed the television services and stations for which the licences needed to be renewed to continue their operations.
3. In response, World Fishing Network ULC (World Fishing Network) filed an application to renew the broadcasting licence for the national, English-language discretionary service Sportsman Canada, which expires 31 August 2020. The Commission did not receive any interventions regarding this application.
4. World Fishing Network confirmed that it would adhere to the standard requirements for discretionary services set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436. Further, the licensee proposed to devote, in each broadcast year, a minimum of 10% of the service's previous broadcast year's gross revenues to Canadian programming expenditures (CPE).

Non-compliance

5. Among other things, section 3(1) of the Act declares that programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose (section 3(1)(p)). In accordance with this aspect of the broadcasting policy and pursuant to its authority in section 9(1), the Commission has imposed conditions of licence regarding the provision of closed captioning.

6. Sportsman Canada is in apparent non-compliance with its condition of licence 5 set out in Broadcasting Regulatory Policy 2010-786-1 regarding closed captioning of 100% of its English and French-language advertising, sponsorship messages, and promos by no later than the fourth year of the licence term.
7. In this regard, based on the information filed with the Commission, the licensee provided closed-captioning for 2.32% of its advertising, sponsorship messages, and promos for the 2014-2015 broadcast year. Sportsman Canada attributed its apparent non-compliance to a deficiency in its programming logging system which did not properly reflect the presence of captioning for this content in the review of programming logs. The licensee confirmed that it has undertaken all the necessary measures to ensure that its logs reflect the captioning present in this content as of the 2016-2017 broadcast year.
8. In light of the above, the Commission finds the licensee in non-compliance with the closed captioning of all English- and French-language advertising, sponsorship messages and promos, but it is satisfied with the steps taken to remedy the non-compliance. Therefore, the Commission considers that no further corrective action is required.

Complaint

9. A complaint was filed by Wild TV Inc. (Wild TV) against Sportsman Canada on 17 January 2019. Wild TV stated that Sportsman Canada may not have met its Canadian content requirements and that it exceeded the allowable time per clock hour devoted to commercial advertising. The evidence provided to support the complaint included a programming grid for the period between 31 December 2018 and 31 March 2019. Although Wild TV filed a complaint for that period, the programming and advertisements scheduled for the period in question had yet to be broadcast.
10. In response to Wild TV, the Commission advised that, at the time of the complaint, there did not appear to be sufficient evidence to assess Sportsman Canada's compliance since the relaunch of the service in January 2019. A review of the service's performance as part of this proceeding, once evidence of the full broadcast year was available, found that the licensee was not in non-compliance with the requirements outlined in the complaint.
11. In light of the above, the Commission finds that there was insufficient evidence to find the licensee in non-compliance with this licence requirement and therefore dismisses the complaint.

Canadian programming expenditures

12. Sections 3(1)(e) and (s)(i) of the Act declare that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming and that private networks and programming

undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming. In accordance with this aspect of the broadcasting policy and pursuant to its authority in section 9(1), the Commission has imposed conditions of licence requiring programming undertakings to contribute in various ways to the creation of Canadian programming, including imposing CPE requirements.

13. In Broadcasting Regulatory Policy 2015-86, the Commission announced that CPE requirements would be implemented for all English- and third-language discretionary services with over 200,000 subscribers, based on historical expenditure levels.
14. As noted above, World Fishing Network proposed a minimum CPE level of 10% of Sportsman Canada's previous broadcast year's gross revenues.
15. Since 2015, Sportsman Canada has spent an average of 5% on Canadian programming. Accordingly, and consistent with the minimum CPE level of 10% for discretionary services set out in Broadcasting Regulatory Policy 2015-86, the Commission finds a 10% CPE requirement for Sportsman Canada to be appropriate. A **condition of licence** to that effect is set out in the appendix to this decision.
16. The Commission considers it appropriate to adopt an incentive to encourage the reflection of Indigenous peoples within the broadcasting system. Specifically, for each of their stations licensees will receive a 50% credit towards their CPE requirements for expenditures on Canadian programming produced by Indigenous producers, up to a maximum (expenses plus credit) of 10% of each licensee's overall CPE requirement when combined with the credit discussed below regarding official language minority community (OLMC) reflection. Only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit.
17. The Commission is also of the view that a similar credit could encourage greater onscreen reflection of OLMCs in the broadcasting system. Consequently, for each of their stations, the licensees will receive a 25% credit against their CPE requirements for expenditures on Canadian programming produced by OLMC producers, up to a maximum (expenses plus credit) of 10% of each 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 and (i) if in the province of Quebec, the original language of the production must be English or (ii) if outside of the province of Quebec, the original language of the production must be French.
18. **Conditions of licence** reflecting these determinations are set out in the appendix to this decision.

Conclusion

19. In light of the above, the Commission **renews** the broadcasting licence for the national, English-language discretionary service Sportsman Canada from 1 September 2020 to 31 August 2025. The terms and **conditions of licence** for this service are set out in the appendix to this decision.

Secretary General

Related documents

- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-192, 3 June 2019
- *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
- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011
- *The reporting of Canadian programming expenditures*, Public Notice CRTC 1993-93, 22 June 1993

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2020-212

Terms, conditions of licence, expectations and encouragements for the English-language discretionary service Sportsman Canada

Terms

The licence will take effect 1 September 2020 and expire 31 August 2025.

Conditions of licence

1. The licensee shall adhere to 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, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. The licensee shall, in each broadcast year, devote not less than 10% of the previous year's gross annual revenues of the undertaking to the acquisition of or investment in Canadian programming.
3. Subject to condition 4, 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.
4. The licensee may claim the credits calculated in accordance with condition 3 until the expenditures made on Canadian programming produced by Indigenous producers and by official language minority community producers, including credits, reach a combined maximum of 10% of the Canadian programming expenditure requirement for the undertaking.

5. In regard to expenditures on Canadian programming:
- a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming that is up to 5% less than the minimum required expenditure for that year calculated in accordance with condition of licence 2; 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 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, at a minimum, the total of the minimum required expenditures calculated in accordance with condition of licence 2.
6. In the two years following the end of the licence term ending 31 August 2020, the licensee shall report and respond to any Commission enquiries relating to the expenditures on Canadian programming made by the licensee for that term.
7. The licensee is responsible for any failure to comply with the requirements relating to expenditures on Canadian programming that occurred during the licence term ending 31 August 2020.

Definitions

For purposes of these conditions:

“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 (OLMC)” 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 of the province of Quebec, produces original French-language programming.

Clarification for OLMC producer:

To be considered an OLMC producer in Canada, a production company must:

- a) if it produces original programs in English, have its head office in Quebec and be owned and operated by a resident of Quebec; or
- b) if it produces original programs in French, have its head office outside Quebec and be owned and operated by a resident outside of Quebec.

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 encouragement 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.