



## Broadcasting Decision CRTC 2020-247

PDF version

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

Ottawa, 7 August 2020

**The GameTV Corporation**  
Across Canada

*Public record for this application: 2019-1015-9*

### Game TV – Licence renewal

*The Commission **renews** the broadcasting licence for the national, English-language discretionary service Game TV from 1 September 2020 to 31 August 2025.*

#### Application

1. The Commission has the authority, pursuant to section 9(1) 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 for which the broadcasting licences would expire 31 August 2020 and therefore needed to be renewed for the services to continue their operations.
3. In response, The GameTV Corporation (GTV) filed an application to renew the broadcasting licence for the national, English-language discretionary service Game TV.
4. GTV confirmed that it would adhere to the standard requirements for discretionary services set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436. The licensee also proposed that Game TV devote, in each broadcast year, a minimum of 10% of the previous broadcast year's gross revenues to Canadian programming expenditures (CPE).
5. The Commission received an intervention from an individual in regard to this application, to which the licensee did not reply. This individual submitted that Game TV provides only gaming-related content and limited social good.

6. As set out in Broadcasting Regulatory Policy 2015-86, in order to grant greater flexibility to broadcasters to create and acquire programming that they consider will best suit their audiences, the Commission no longer enforces conditions of licence relating to nature of service, with the exception of services that benefit from mandatory distribution under section 9(1)(h) of the Act. Accordingly, in regard to its examination of the present licence renewal application, the Commission has not taken into consideration the intervener's concerns relating to the nature of the service being offered by Game TV.

## **Commission's analysis and decisions**

### **Tangible benefits**

7. In a letter dated 25 November 2016, the Commission approved an application<sup>1</sup> to effect a change in effective control of the licensee of Game TV and set out its expectation that the licensee would make a financial contribution of \$448,895 spread equally over seven consecutive broadcast years and distributed as follows:
  - Canada Media Fund: \$215,470
  - Rogers Documentary Fund: \$71,823
  - Shaw Rocket Fund: \$71,823
  - Discretionary initiative: \$89,779
8. In its letter dated 30 January 2020, GTV confirmed that it made three aggregate contributions of \$64,128 in each of the three preceding broadcast years (specifically, 2016-2017, 2017-2018 and 2018-2019). To date, it has distributed \$64,128 to each of the three above-mentioned funds and \$0 to the discretionary initiative. GTV added that it intends to make four more aggregate contributions of \$64,128 in each of the four broadcast years to come. However, the amounts distributed to the four recipients will change from year to year so that each recipient receives the full outstanding balance of the agreed-upon tangible benefits, as set out above, by the end of the seven-year payment term.
9. The Commission does not have any concerns regarding the licensee's proposed payment schedule.

---

<sup>1</sup> The public record for this application is 2016-0763-1.

## Canadian programming expenditures

10. Sections 3(1)(e) and 3(1)(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.
11. 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, and that these requirements would be set at a minimum spending level of 10%, established on a case-by-case basis and based on historical expenditure levels.
12. As noted above, GTV proposed that Game TV devote 10% of the previous broadcast year's gross revenues to CPE. Game TV's historical expenditure averaged 9%. As such, its proposed CPE requirement is consistent with the Commission's decision in Broadcasting Regulatory Policy 2015-86 in regard to what constitutes an appropriate minimum level of spending on CPE.
13. In light of the above, the Commission finds a 10% CPE requirement to be appropriate. A **condition of licence** to that effect is set out in the appendix to this decision.
14. The broadcasting policy set out in section 3(1) of the Act also provides that the Canadian broadcasting system should reflect the linguistic duality of Canada and the special place of aboriginal peoples within Canadian society (section 3(1)(d)(iii)).
15. The Commission considers it appropriate to adopt an incentive 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 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.

16. 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 discussed above regarding 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.
17. Accordingly, **conditions of licence** reflecting these determinations are set out in the appendix to this decision.

### **Conclusion**

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

### **Reminder**

19. The Commission reminds the licensee that it must fulfill any outstanding tangible benefits in accordance with the timelines set out in prior Commission decisions.

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
- *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014
- *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 2020-247**

### **Terms, conditions of licence, expectations and encouragements for the national, English-language discretionary service Game TV**

#### **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. For the purposes of the definition of “independent production company,” “Canadian” includes any individual 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 if operating in the province of Quebec, produces original English-language programming, or 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 encouragements 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.