Broadcasting Decision CRTC 2020-248

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

Ottawa, 10 August 2020

ZoomerMedia Limited
Across Canada

Public record for these applications: 2019-1025-8 and 2019-1027-4

ONE: GET FIT and VisionTV – Licence renewals

The Commission ***renews*** *the broadcasting licences for the English-language discretionary services ONE: GET FIT and VisionTV from 1 September 2020 to 31 August 2025.*

Applications

1. The Commission has 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 (the Call), which listed the television stations and services for which broadcasting licences would expire 31 August 2020 and therefore needed to be renewed to continue their operations. In the Call, the Commission requested that licensees of those stations and services submit renewal applications for their broadcasting licences.

3. In response, ZoomerMedia Limited (ZoomerMedia) filed applications to renew the broadcasting licences for the national, English-language discretionary services ONE: GET FIT and VisionTV, which expire 31 August 2020.

4. In regard to ONE: GET FIT, ZoomerMedia 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 requested various exceptions to the standard requirements for the discretionary service VisionTV. Further, the licensee proposed to devote, in each broadcast year, a minimum of 24% of each service's previous broadcast year's gross revenues to Canadian programming expenditures (CPE).

Interventions

5. The Commission received an intervention in regard to the present applications from the Forum for Research and Policy in Communications (FRPC). In its intervention, the FRPC submitted that the Part 1 process used by the Commission for the renewal of the broadcasting licences for independent television stations is not appropriate given that a Part 1 proceeding does not give the public sufficient notice to consider and comment on licence renewal applications for services in non-compliance. The FRPC further noted that ZoomerMedia had filed late or incomplete annual returns and recommended that the Commission grant the service a full licence renewal less one year and remind the licensee of the importance of filing complete annual returns on time.

6. A member of the public submitted an intervention noting that ZoomerMedia is not a religious organization and that VisionTV is strictly a commercial operation rather than a religious undertaking

7. With respect to the FRPC intervention, the Commission notes that dealing with licence renewal applications under the Part 1 process is a long-standing practice that was first announced to the public and to the broadcasting industry in Broadcasting Information Bulletin 2015-116. Any party may comment on a Part 1 application and examine the licensee’s correspondence with Commission staff regarding non-compliance. The issue of non-compliance with respect to the submission of annual returns is discussed later in this decision.

8. With respect to the concerns raised by a member of the public, the Commission does not generally regulate the nature of discretionary services’ programming except in limited circumstances, such as in cases of services benefitting from a distribution order made under section 9(1)(h) of the Act. This is a long-standing approach that the Commission has implemented systematically since it was outlined in Broadcasting Regulatory Policy 2015-86. The Commission has not received any evidence to demonstrate that a deviation from this approach is necessary in this case. As such, the Commission will not make any determinations with respect to the nature of the ONE: GET FIT or VisionTV services.

Commission’s analysis and decisions

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

- non-compliance with requirements concerning the filing of annual returns;
- the licensee’s proposed CPE requirement; and
- described video requirements for VisionTV.

Non-compliance

10. Section 10 (1)(i) of the Act authorizes the Commission to make regulations in furtherance of its objects requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.

11. Consistent with this authority, the Commission made section 8(1) of the *Specialty Services Regulations, 1990*, which requires licensees to file, by no later than 30 November of each year, an annual return, including financial statements, for the broadcast year ending the previous 31 August.[1]

12. In this regard, the annual returns for ONE: GET FIT and VisionTV for the 2015-2016, 2016-2017 and 2017-2018 broadcast years were late and incomplete because the licensee did not attach complete financial statements to the form.

13. The licensee, however, promptly filed the financial statements when requested in January 2020. The Commission is of the view that the annual returns were not complete until the complete financial statements were filed.

14. In light of the above, the Commission finds the licensee in non-compliance with section 8(1) of the *Specialty Services Regulations, 1990* for the 2015-2016 and 2016-2017 broadcast years and the *Discretionary Services Regulations* for the 2017-2018 broadcast year. However, given that this is the first instance of non-compliance by ZoomerMedia in regard to the requirement relating to the filing of annual returns and the annual returns are now complete, the Commission finds that no further action is necessary.

Canadian programming expenditures

15. Sections 3(1)(e) and 3(1)(s) 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 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 under 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.

16. In Broadcasting Regulatory Policy 2015-86, the Commission announced that CPE requirements would be implemented for all English- and third-language

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[1] In 2017, these regulations were replaced by the *Discretionary Services Regulations*, of which section 9(1) sets out this same requirement.

discretionary services with over 200,000 subscribers, based on historical expenditure levels.

Licensee's proposal

17. As noted above, ZoomerMedia proposed a minimum CPE level of 24% of ONE: GET FIT and VisionTV's previous broadcast year's gross revenues.

18. In support of its request, ZoomerMedia argued that VisionTV's viewership and subscription revenues will continue to decline since the service no longer has guaranteed carriage on distribution systems by virtue of its status as a Category A service. According to ZoomerMedia, both services have experienced a decline in viewership and subscriber revenues, which the applicant projects will continue. ZoomerMedia argued that the proposed 24% CPE level is higher than that of other independently owned services such as Silver Screen Classics, Hollywood Suite, DHX Television and Blue Ant Television. It also argued that a CPE expenditure level of 24% is proportionate to the Commission's CPE policies for group ownership and is appropriate for the rapidly deteriorating television landscape.

19. The average CPE for ONE: GET FIT from 2015 to 2019, expressed as a percentage of the previous year's revenues was 44%. For VisionTV, the figure was 42%. The revenues for both services have declined since 2015, but both remain profitable. The Commission agrees, however, the subscriber and viewership levels will decline for VisionTV since it will no longer be a Category A service.

Commission's analysis

20. While ZoomerMedia has cited a number of independently owned services with lower CPE requirements than the proposed 24%, the spending of those services were assessed, in line with Broadcasting Regulatory Policy 2015-86, on an individual basis taking into consideration historical CPE and financial data at the time of licence renewal.

21. Based on the evidence provided by the licensee during this proceeding and available to the Commission through the licensee's annual returns, revenues for both services have declined since 2015, but both remain profitable. The Commission also recognizes that the subscriber and viewership levels may fluctuate for both services, particularly for VisionTV since it will no longer be a Category A service. While this may affect the services' revenues, CPE is established as a percentage of a service's previous year's gross revenues. Therefore, as revenues fluctuate, so will the dollars spent by a licensee on CPE.

22. However, while both of ZoomerMedia's services have historically spent well in excess of 30% of the previous year's revenues on CPE, a CPE requirement above 30% would be higher than that imposed on the large broadcast groups. The Commission considers that it would not be appropriate to impose a higher requirement on a small independent broadcaster.

23. The Commission therefore finds that a CPE level of 30% is appropriate for both services. **Conditions of licence** to this effect are set out in the appendices to this decision.

Improved access by certain under-represented groups to the broadcasting system

24. The broadcasting policy set out in section 3(1) also provides that the Canadian broadcasting system should reflect the linguistic duality of Canada and the special place of Indigenous peoples within Canadian society (section 3(1)(d)(iii)).

25. Accordingly, the Commission considers it appropriate to adopt an incentive to encourage the reflection of Indigenous peoples within the Canadian 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 by the Commission will be considered eligible for the credit.

26. The Commission is also of the view that a similar credit could encourage greater onscreen reflection of OLMCs in the Canadian 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 each licensee’s overall CPE requirement when combined with the credit on Indigenous reflection. Once again, only programming costs counting towards CPE as defined by the Commission 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.

27. Accordingly, the Commission has set out **conditions of licence** to that effect in the appendices to this decision.

Described video requirements for VisionTV

28. 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 described video (DV).

29. As a broadcaster subject to described video requirements, VisionTV would normally be required to provide DV for all programming broadcast between 7 p.m. and 11 p.m. (prime time), seven days a week during the next licence term. This

requirement would apply to programs that fall into existing program categories that have been identified for described video.

Licensee's proposal

30. As an alternative, ZoomerMedia requested that its DV requirements be phased in. Under this approach, VisionTV would offer 6 hours of DV programming per broadcast week in year 1, 11 hours in year 2, and 19 hours in year 3.

31. In support of its request, the licensee submitted that its programming includes legacy dramatic programming, which falls within program category 7 - Drama and Comedy. This programming was produced before production companies began incorporating DV, so the licensee is unable to obtain episodes in DV format from program distributors.

32. The licensee argued that it currently does not have the capacity to add DV in-house so it must be added by third parties. ZoomerMedia estimated the cost of adding DV at $500 per one-hour episode, which adds up to almost $500,000 annually.

33. The licensee further estimated that adding DV would take 21 to 28 days per one-hour program. In addition, it must edit programs for content and commercial breaks, and, in many cases, closed captioning must be added. The time constraints become more difficult because significant amounts of VisionTV's prime time programming is delivered by distributors fewer than 30 days before the date of broadcast.

34. The licensee added that there are a limited number of DV service providers in Canada, and that vertically integrated broadcasters have created a labour supply challenge that affects small independently owned broadcasters.

35. The licensee further stated that, as a result of Broadcasting Regulatory Policy 2015-86 and Broadcasting Decision 2016-458, broadcasting distribution undertakings were required to relocate VisionTV off of the basic service by March 2016 resulting in a loss of over 1,569,000 subscribers and resulting subscription revenues between 2016 and 2019.

36. To deal with these difficulties, ZoomerMedia plans to make a make a transition to in-house production of DV. This will require hiring a full-time editor, a DV writer, and voice-over talent as well as the development of specialized workflows. As a result, initial output of DV would be below the current levels under the standard DV obligations so a phased-in approach for DV requirements is necessary. The licensee submitted that this approach would cost more than outsourcing to a third-party at the outset, but would lead to faster turn-around times in the long term. ZoomerMedia submitted that its approximate costs for the next three years under its proposed DV condition of licence would be as follows:

- 2020-2021 – Annual cost of $156,000 (6 hours of weekly DV programming in Year 1)
- 2021-2022 – Annual cost of $286,000 (11 hours of weekly DV programming in Year 2)
- 2022-2023 – Annual cost of $494,000 (19 hours of weekly DV programming in Year 3)

Commission’s analysis

37. When a licensee requests a condition of licence amendment, the Commission generally expects the licensee to present evidence to support its proposal. Accordingly, the Commission will evaluate ZoomerMedia’s request on the evidence provided, i.e, on the basis of the financial and logistical challenges it faces with regard to the implementation of DV. The Commission will also consider whether the requested amendment is in the public interest.

Financial challenges

38. ZoomerMedia is independently owned and VisionTV is facing challenges associated with it being relocated from the basic service of distribution systems. However, according to financial information provided in VisionTV’s annual returns, its revenues have remained stable for three years. Moreover, VisionTV has achieved profitability over the last five years and profit before interest and tax has increased steadily over that time.

39. This suggests that the licensee has the financial wherewithal to provide DV for its programming. Moreover, the licensee has not provided documentation from third-party DV services to support its costs for third-party DV production.

40. While acknowledging that ZoomerMedia is proposing to develop in-house DV production capacity, the Commission notes that the licensee has had since 2015 to plan, implement, and spread the cost of its proposal over the 2015-2019 period. Had it done so, there would have been no impact on the provision of DV to persons with disabilities.

41. Accordingly, the Commission finds that the licensee has not demonstrated a compelling financial argument to justify an exception to the Commission’s DV regulatory policy.

Logistical challenges

42. The licensee submitted that its prime-time programming is delivered by distributors fewer than 30 days before the air date and estimated that adding DV from third-party providers would take about 21 to 28 days per program. The Commission notes, however, that the licensee has not provided documentation from third-party DV providers to support its timeline estimates.

43. In Broadcasting Regulatory Policy 2019-392, the Commission addressed amendments proposed by Bell Media Inc., Corus Entertainment Inc. and Rogers Media Inc. (the Applicants) to their condition of licence that requires prime time programming to be broadcast with described video. As part of this process, the Applicants stated that 72 hours is required to provide DV for U.S. programming.

44. Based on the evidence filed on the record of that proceeding, the Commission determined it would be appropriate to grant the Applicants an exception to the DV requirement for programming received from U.S. distributors less than 24 hours from the date of airing. The evidence included information filed by DV vendors, which made it clear that DV could be delivered for programming received 24 hours or more before the date of airing.

45. In light of the above, the Commission considers that DV can be provided in shorter timeframes than the 21 to 28 days suggested by ZoomerMedia. Accordingly, the Commission finds that the licensee has failed to demonstrate that its production timelines will affect its compliance with the standard DV requirements.

Public interest

46. Section 3(1)(p) of the Act stipulates that “programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available…”. In Broadcasting and Telecom Regulatory Policy 2009-430, the Commission stated “that persons with disabilities should be able to access programming with described video from both the public and private sectors in French and English.”

47. In Broadcasting Regulatory Policy 2015-104, the Commission stated that it would “implement a tiered approach to ramp up the amount of described video being provided by television broadcasters, with the tiered requirements reflecting the size and resources of broadcasters.” In developing its approach, the Commission considered the costs relating to described video and therefore offered television broadcasters a timeframe that it considered reasonable to achieve the target, which was slightly more than four years.

48. In Broadcasting Decision 2019-258, the Commission reminded “television broadcasters of the importance of described video to ensure accessibility to programming. All television broadcasters, from independent to large vertically integrated entities, must promote access to programming for persons with disabilities, whether visually or hearing impaired individuals by providing programming adapted to their particular needs and thereby enabling them to fully participate in Canadian society.”

49. The Commission considers that ZoomerMedia has had considerable time to prepare for the standard DV requirement since the publication of Broadcasting Regulatory Policy 2015-104. Further, the Commission is of the view that the licensee has the resources to implement DV without compromising its ability to

continue operations. In light of the above, the Commission finds that granting an exception to the DV policy, which is intended to improve access to broadcasting for Canadians who are blind or partially sighted, would not be in the public's best interest.

50. In light of all of the above, the Commission **denies** ZoomerMedia's proposal for a ramped up DV requirement. VisionTV will be subject to a **condition of licence** requiring it to provide described video for programming broadcast between 7 p.m. and 11 p.m. (prime time), seven days a week. This requirement will apply to programs that fall into existing program categories that have been identified for described video.

Conclusion

51. Since 2010, it has been the Commission's general practice to renew television licences for five years to allow it to more regularly assess the performance of licensees as well as the criteria used to assess such performance. The Commission finds that such a term is appropriate in this case.

52. In light of all of the above, the Commission **renews** the broadcasting licences for the national, English-language discretionary services ONE: GET FIT and VisionTV from 1 September 2020 to 31 August 2025. The **conditions of licence**, expectations and encouragements for ONE: GET FIT are set out in the Appendix 1 to this decision, and those for VisionTV are set out in Appendix 2.

Reminder

53. The timely filing of complete annual returns, including financial statements, is a basic and fundamental regulatory obligation. Compliance with this requirement not only allows the Commission to effectively monitor licensees' performance and compliance with various regulations and obligations, but also enables it to effectively assess, supervise, and regulate the television broadcasting industry as a whole. Accordingly, the late or incomplete filing of annual returns and financial statements is considered to be a serious matter.

Secretary General

Related documents

- *Amendment proposed by Bell Media Inc., Corus Entertainment Inc., and Rogers Media Inc. to their condition of licence that requires prime time programming to be broadcast with described video*, Broadcasting Regulatory Policy CRTC 2019-392, 3 December 2019

- *Various discretionary services and conventional television stations – Licence amendment*, Broadcasting Decision 2019-258, 17 July 2019

- *Licence renewal of broadcasting distribution undertakings – Review of practices relating to the small basic service and flexible packaging options and imposition of various requirements*, Broadcasting Decision CRTC 2016-458, 21 November 2016

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

- *New procedure for licence renewal applications*, Broadcasting Information Bulletin CRTC 2015-116, 31 March 2015

- *Let's Talk TV – Making informed choices about television providers and improving accessibility to television programming*, Broadcasting Regulatory Policy CRTC 2015-104, 26 March 2015

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

- *Accessibility of television and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009

This decision is to be appended to each licence.

Appendix 1 to Broadcasting Decision CRTC 2020-248

Terms, conditions of licence, expectations and encouragements for the English-language discretionary service ONE: GET FIT

Terms

The licence will expire 31 August 2025.

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for discretionary services 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. In each broadcast year, the licensee shall devote to the acquisition of or investment in Canadian programming at least 30% of the previous year's gross annual revenues of the undertaking.

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 of licence:

"Broadcast year" shall have the same meaning as that set out in the *Discretionary Services Regulations*.

Independent production company: means a Canadian 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 or any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity. (Referenced in the 2011 group-based licensing decisions).

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", "Canadians" include 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;

(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.

Appendix 2 to Broadcasting Decision CRTC 2020-248

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

Terms

The licence will expire 31 August 2025.

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence, expectations and encouragements for specialty services 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 condition 17, which is replaced by the following:

   The licensee shall 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 programming targeting preschool children (0-5 years of age) and children (6-12 years of age).

2. In each broadcast year, the licensee shall devote to the acquisition of or investment in Canadian programming at least 30% of the previous year's gross annual revenues of the undertaking.

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 of licence:

"Broadcast year" shall have the same meaning as that set out in the *Discretionary Services Regulations*.

Independent production company: means a Canadian 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 or any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity. (Referenced in the 2011 group-based licensing decisions).

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", "Canadians" include 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;

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.