



Broadcasting Decision CRTC 2020-292

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

Ottawa, 25 August 2020

Fight Media Inc.
Across Canada

Public record for this application: 2019-1017-5

Fight Network – Licence renewal

*The Commission **renews** the broadcasting licence for the national, English-language discretionary service Fight Network 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, Fight Media Inc. (FMI) filed an application to renew the broadcasting licence for the national, English-language discretionary service Fight Network. The Commission did not receive any interventions regarding this application.
4. FMI confirmed that it would adhere to the standard requirements for discretionary services, as set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436, with the exception of condition of licence 8, which would require FMI to devote not more than 10% of the programming broadcast during the broadcast month to live professional sports programming drawn from program category 6(a) Professional sports. Rather, FMI proposed that Fight Network, as it has been permitted to do since Broadcasting Decision 2016-78 was published, adhere to a condition of licence that excludes combat sports from the calculation of that 10% limit, as set out below:

The licensee shall devote not more than 10% of the programming broadcast during the broadcast month to live professional sports programming, which falls under program category 6(a) Professional sports. Combat sports are excluded from the calculation of this condition of licence.

5. As expressed by the Commission in Broadcasting Decision 2016-78, combat sports are understood to include boxing, kickboxing, wrestling, judo, karate, kung fu, jiu-jitsu, aikido, kendo, sumo, fencing and mixed martial arts.
6. The licensee also proposed that Fight Network devote, in each broadcast year, a minimum of 10% of the previous broadcast year's gross revenues to Canadian programming expenditures (CPE).

Commission's analysis and decisions

Non-compliance

7. 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.
8. Condition of licence 4 set out in Broadcasting Regulatory Policy 2010-786-1 requires the licensee to caption 100% of the English- and French-language programs broadcast over the broadcast day, consistent with the approach set out in Broadcasting Public Notice 2007-54.
9. Based on its analysis of the program logs filed by the licensee and the results placed on the record of this proceeding, the Commission determined that the licensee was in apparent non-compliance with this condition of licence in the 2013-2014 broadcast year.
10. FMI indicated that, beginning in the 2013-2014 broadcast year, it undertook an extensive project to develop an in-house captioning department and implement new captioning technology. The process of implementing this system took longer than planned and resulted in some technical glitches. However, according to the licensee, implementation is now complete, the technical glitches have been fixed, and new policies and safeguards have been put in place to prevent recurrence of any such issues in future. The Commission notes that no apparent instances of non-compliance by the licensee with respect to this requirement have been identified since the 2013-2014 broadcast year.
11. In light of the above, the Commission finds the licensee to be in non-compliance with condition of licence 4 set out in Broadcasting Regulatory Policy 2010-786-1 for the 2013-2014 broadcast year. However, the Commission acknowledges the explanation provided by the licensee, and it notes the measures that the licensee has put in place to address this non-compliance and ensure compliance going forward. The Commission does not consider that further corrective measures are required.

Canadian programming expenditures

12. 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.
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, 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.
14. As noted above, FMI proposed that Fight Network devote 10% of the previous broadcast year's gross revenues to CPE. This proposed expenditure requirement is lower than Fight Network's historical expenditures. However, FMI submitted that it would be appropriate in light of Fight Network's limited distribution and low penetration rate, the service's projected decrease in CPE due to the expiry of its contract with UFC, a decline in the number of Canadian fight organizations able to supply Fight Network with Canadian programming and necessary changes to Fight Network's programming strategy. The licensee added that it would treat this proposed 10% CPE requirement as a floor and not a ceiling for its expenditures on Canadian programming.
15. Based on its analysis of Fight Network's expenditures over the last five broadcasting years, the Commission determined that the service's average spending on CPE was 43%. However, yearly spending on CPE in the three-year period spanning 2015 to 2017, which ranged from 50% to 65%, was significantly higher than spending on CPE in 2018 and 2019, when it ranged from 12% to 17%. The Commission notes that this decrease in CPE and in programming costs followed the expiry of Fight Network's programming contract with UFC and the resulting change in the service's programming strategy. The Commission is, therefore, of the view that the figures from the last two years (2018 and 2019) are likely more representative of Fight Network's programming and financial strategies for the years to come. Therefore, a CPE requirement derived from an average of the CPE expenditures for 2018 and 2019 is more appropriate for the next licence term.
16. In light of the above, the Commission finds a 14% CPE requirement to be appropriate. A **condition of licence** to that effect is set out in the appendix to this decision.

17. 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)).
18. 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.
19. 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.
20. Accordingly, **conditions of licence** reflecting these determinations are set out in the appendix to this decision.

Conclusion

21. In light of all of the above, the Commission **renews** the broadcasting licence for the national, English-language discretionary service Fight Network from 1 September 2020 to 31 August 2025. The terms and **conditions of licence** 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
- *Fight Network – Licence amendments*, Broadcasting Decision CRTC 2016-78, 1 March 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
- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007
- *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 2020-292

Terms, conditions of licence, expectations and encouragements for the national, English-language discretionary service Fight Network

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 the broadcasting licence for the undertaking as well as to the conditions 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 of licence 8, which is replaced by the following:

The licensee shall devote not more than 10% of the programming broadcast during the broadcast month to live professional sports programming, which falls under program category 6(a) Professional sports. Combat sports are excluded from the calculation of this condition of licence.

2. The licensee shall, in each broadcast year, devote not less than 14% 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.