



Broadcasting Decision CRTC 2020-306

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

Ottawa, 26 August 2020

Salt and Light Catholic Media Foundation
Across Canada

Public record for this application: 2019-1035-7

Salt + Light – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language discretionary service Salt + Light 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. In that notice of consultation, the Commission requested that the licensees of those services submit renewal applications for their broadcasting licences.
3. In response, Salt and Light Catholic Media Foundation filed an application to renew the broadcasting licence for the currently licensed specialty service Salt + Light, for which the licence was last renewed in Broadcasting Decision 2013-466.
4. The licensee confirmed that it would adhere to the standard requirements for discretionary services set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436. Further, it proposed that Salt + Light devote 10% of its previous broadcast year's gross revenues to Canadian programming expenditures (CPE).

Intervention

5. The Commission received an intervention in regard to the present application 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 the applicant had failed to meet the Commission's closed captioning requirements. The FRPC recommended that the Commission grant Salt + Light a two-year licence term. The applicant did not reply to the intervention.

6. 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.

Commission's analysis and decisions

Apparent non-compliances

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 5 set out in Broadcasting Regulatory Policy 2010-786-1 requires Salt and Light Catholic Media Foundation to provide 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 on Salt + Light, for the 2016-2017 broadcast year.
9. Based on its analysis of the program logs filed by the licensee and the results placed on the record of this proceeding, the licensee is in apparent non-compliance with condition of licence 5 noted above for the 2016-2017 broadcast year. Salt and Light Catholic Media Foundation attributed its apparent non-compliance to a lack of clarity by its senior management communicating its regulatory requirements within the organization. The licensee has since pulled all its advertising, sponsorship messages and promos that were not closed captioned from its schedule. Further, it has communicated its closed captioning regulatory requirements to all staff.
10. In light of the above, the Commission finds Salt and Light Catholic Media Foundation in non-compliance with the requirement to provide closed captioning of 100% of its English- and French-language advertising, sponsorship messages and promos on Salt + Light by no later than the fourth year of the licence term, but it is satisfied with the steps taken to remedy the non-compliance. Therefore, the Commission considers that no further corrective action is required.

Canadian programming expenditures

11. 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.
12. 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 established on a case-by-case basis and based on historical expenditure levels. However, the Commission's view was that, at a minimum, this level would be set at a spending level of 10%.
13. Salt and Light Catholic Media Foundation submitted that a 10% CPE requirement would be appropriate for Salt + Light, despite higher average historical spending and higher annual spending over the past three years, since this level of spending, in the applicant's view, is appropriate for a small discretionary service.
14. Salt and Light Catholic Media Foundation submitted that it has spent an average of 28% on CPE from 2015 to 2019. The licensee has stated that, as a charitable organization, its revenues depend largely on donations. It further noted that its revenues from advertising have seen a steady decline over the past five years. The licensee also argued that a 10% requirement would provide it the necessary flexibility to adapt as required and pointed to heightened risks to its revenues given that it does not receive wholesale fees from its affiliation agreements with broadcasting distribution undertakings.
15. The Commission recognizes that donations can be volatile, particularly in times of economic uncertainty and recognizes that Salt + Light's business model, unlike the majority of other discretionary services, does not rely on subscription revenues. Given the particular nature of the licensee's business model, the Commission considers that a deviation from the CPE policy framework outlined in Broadcasting Regulatory Policy 2015-86 would be warranted. As such, the Commission approves the licensee's proposal for CPE to be set at a level of 10% of its previous year's gross revenues. While this level represents a minimum and noting that the historical spending on CPE by the licensee has certainly exceeded 10%, in these circumstances the Commission considers it appropriate to grant the licensee with this added flexibility. A **condition of licence** to that effect is set out in the appendix to this decision.

16. The broadcasting policy set out in section 3(1) also provides that the Canadian broadcasting system should reflect the special place of aboriginal peoples within Canadian society (section 3(1)(d)(iii)) and the different needs and circumstances of English and French linguistic minorities (section 3(1)(m)(iv)).
17. The Commission considers it appropriate to adopt an incentive to encourage the reflection of Indigenous peoples in the broadcasting system. Specifically, each 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 that 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.
18. The Commission is also of the view that a similar credit could encourage greater onscreen reflection of OLMCs in the broadcasting system. Consequently, each 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 that 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.
19. Accordingly, **conditions of licence** reflecting these determinations are set out in the appendix to this decision.

Conclusion

20. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language discretionary services Salt + Light 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

- *New procedures for licence renewal applications*, Broadcasting Information Bulletin 2015-116, 31 March 2015
- *Let's Talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015
- *Various independent specialty Category B services – Licence renewals*, Broadcasting Decision CRTC 2013-466, 30 August 2013
- *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 2020-306

Terms, conditions of licence, expectations and encouragements for the English-language discretionary service Salt + Light

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, 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.