



## Broadcasting Decision CRTC 2022-176

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Ottawa, 29 June 2022

**South Asian Television Canada Limited**  
Across Canada

*Public record: 2019-1075-3*

### **ATN South Asian Television – Licence renewal**

The Commission **renews** the broadcasting licence for the third-language ethnic discretionary service ATN South Asian Television from 1 September 2022 to 31 August 2027.

In addition, the Commission **denies** the licensee's request to benefit from the access rights formerly associated with ethnic Category A services.

Further, the Commission **denies** the licensee's request for exceptions to standard conditions of licence 13 and 16, as well as expectation 3, set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436.

### **Application**

1. The Commission has the authority, pursuant to subsection 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 the Commission deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the Act, as well as to amend those conditions.
2. South Asian Television Canada Limited (ATN) filed an application to renew the broadcasting licence for the third-language ethnic discretionary television programming undertaking ATN South Asian Television (SATV), which expires 31 August 2022.<sup>1</sup>
3. In addition, ATN requested to benefit from the access rights formerly associated with ethnic Category A services. Further, the licensee requested exceptions to certain standard accessibility measures, namely standard conditions of licence 13 and 16, as well as expectation 3, set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436.

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<sup>1</sup> The original licence expiry date for the service was 31 August 2020. The Commission administratively renewed the licence from 1 September 2020 to 31 August 2021 in Broadcasting Decision 2020-243 and from 1 September 2021 to 31 August 2022 in Broadcasting Decision 2021-286.

4. The Commission received two interventions in regard to this application from the Canadian Media Producers Association (CMPA) and Rogers Communications Canada Inc. (Rogers), as well as a reply from ATN.

## **Background**

5. Prior to the Commission's policy determinations set out in Broadcasting Regulatory Policies 2015-86 and 2015-96, pay and specialty services designated as Category A services were licensed on the basis of one service per genre (i.e., genre exclusivity). Category A services were required to provide programming of a specific nature with programs drawn from specific program categories or relating to certain topics. While Category A services were subject to higher regulatory obligations, they also benefitted from certain access rights.
6. As an ethnic Category A service, SATV also benefitted from certain access rights including the "buy-through rule" set out in subsection 27(4) of the former *Broadcasting Distribution Regulations*. This rule stipulated that except as otherwise provided under a condition of licence, a licensed broadcasting distribution undertaking that distributes a general interest non-Canadian third-language service or a general interest third-language Category B service to subscribers shall also distribute an ethnic Category A service, if one is available in the same principal language. Under this rule, Canadians could not subscribe to a Hindi-language service on an individual basis or in any package without also subscribing to SATV.
7. In March 2015, the Commission issued Broadcasting Regulatory Policies 2015-86 and 2015-96, setting out policy determinations from its review of the regulatory framework for television. In that proceeding, the Commission's policy objectives included ensuring that Canadians can choose only the discretionary services they want and ensuring a fair playing field where all discretionary services can compete with each other. To achieve these policy objectives, the Commission eliminated the genre exclusivity policy and phased out access rights for Category A services as their licences were renewed.
8. In the case of SATV, its licence expired initially on 31 August 2020. Consequently, SATV no longer benefits from its former Category A access rights including the buy-through rule since 1 September 2020.
9. Pursuant to the Commission's policy determinations set out in Broadcasting Regulatory Policy 2015-96, the Commission introduced new measures to support independent services, namely the *Wholesale Code* set out in the appendix to Broadcasting Regulatory Policy 2015-438 and the "1:1 ratios" for the offering and packaging of non-Canadian and Canadian ethnic and third-language services set out in subsections 27(3) and (4) of the *Broadcasting Distribution Regulations*.

## Issues

10. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must examine the following issues:

- eligibility for exempt status;
- ATN's request for access rights formerly associated with ethnic Category A services;
- ATN's request for exceptions to certain standard accessibility requirements;
- Canadian programming expenditures (CPE);
- non-compliance; and
- licence term.

### Eligibility for exempt status

11. Pursuant to subsection 9(4) of the Act and the Commission's policy determinations set out in Broadcasting Regulatory Policy 2015-86, the Commission issued Broadcasting Order 2015-88, an exemption order for all discretionary television programming undertakings serving fewer than 200,000 subscribers. Although SATV could operate pursuant to Broadcasting Order 2015-88, it wishes to remain a licensed service and maintain its commitment to Canadian programming.

12. Despite Broadcasting Order 2015-88, the Commission considers that maintaining SATV's licence would be in the public interest. In particular, the licensee would continue to contribute to the production of Canadian programming since it would remain subject to Canadian programming expenditure requirements. Further, the Commission would be better able to address and monitor the licensee's compliance with various requirements, including the standard accessibility measures detailed below.

13. In light of the above, the Commission finds it appropriate to proceed with ATN's licence renewal application so that SATV can maintain its licence.

### ATN's request for access rights formerly associated with ethnic Category A services

14. In its initial application, the licensee indicated that it wishes to continue to operate as a Category A service but did not include any details or justification in regard to this request. In response to a request for information from the Commission dated 6 October 2020, the licensee specified that it wishes to benefit from the former buy-through rule. In support of this request, the licensee added that it exceeded its CPE requirement during the current licence term and noted that it chooses to remain a licensed service subject to this requirement. The licensee proposed that, should the Commission grant this request for certain access rights, SATV's CPE requirement be increased to 22% in the first year of the new licence term, with an annual increase of 3% to reach 40% in the seventh year. However, the licensee stated that, should the Commission deny this request, ATN expects to have to reduce its expenditures through layoffs and that its CPE requirement should remain unchanged at 15%.

15. In its intervention, Rogers opposed SATV benefitting the access rights associated with former ethnic Category A services. Rogers argued that ATN did not provide sufficient justification for the Commission to deviate from the current policy framework. Rogers also pointed out that SATV is in apparent non-compliance with a number of its regulatory requirements and that granting it rights that have not been granted to other licensees would not be appropriate.
16. The Commission notes that in Broadcasting Regulatory Policy 2015-96, it clearly stated its intent to phase out the access rights of the various Category A services at their licence renewal. Therefore, the Commission has systematically renewed pay and specialty Category A services as discretionary services, without granting them any access rights. The Commission is of the view that ATN has not demonstrated that granting the requested access rights for SATV would be in the public interest and warrant an exception to the Commission's current policies. The Commission considers that the fact that SATV exceeded its CPE requirement is not sufficient justification for deviating from its policy. Moreover, the Commission considers that it would be unfair to grant access rights to SATV that have not been granted to other similar services, particularly when SATV is in apparent non-compliance with a number of its regulatory obligations, as detailed below.
17. In light of the above, the Commission **denies** the licensee's request to benefit from the access rights formerly associated with ethnic Category A services.

#### **ATN's request for an exception to certain accessibility obligations**

18. Among other things, subsection 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 (paragraph 3(1)(p)). In accordance with this aspect of the broadcasting policy and pursuant to its authority under subsection 9(1) of Act, the Commission has imposed conditions of licence regarding the provision of closed captioning.
19. At SATV's last licence renewal in 2013 (Broadcasting Decision 2013-468), ATN requested to be relieved of all conditions of licence related to accessibility set out in Appendix 1 to Broadcasting Regulatory Policy 2011-443. ATN indicated that SATV's programming does not lend itself to closed captioning, described video or audio description because it is primarily in Hindi.
20. The licensee specified that the small amount of English language content it broadcasts (10%) does not warrant the infrastructure required for closed captioning, particularly given its small audience and low profitability relative to closed captioning costs. It added that much of its English-language programming is live and that the mention of last names and place names in heavily accented English makes meeting speed and accuracy standards difficult.

21. In Broadcasting Decision 2013-468, the Commission indicated that requests for exceptions to standard conditions of licence must be accompanied by detailed financial evidence. The Commission determined that the information provided by ATN inaccurately reflected the costs associated with the captioning of its English-language programming, particularly since there are various ways of providing closed captioning that do not require the licensee to purchase equipment or to hire additional staff.
22. In addition, the Commission noted that live programming involving names that are difficult to pronounce in English is not unique to SATV; the Commission considered this issue during the proceeding that led to the implementation of closed captioning quality standards. In that proceeding, the Commission determined that neither live programming nor unfamiliar names justified allowing the provision of lower quality closed captioning. Therefore, the Commission found that the licensee provided insufficient evidence to justify an exception to that standard condition of licence and denied the licensee's request.
23. As part of the current application, the licensee made a similar request, specifically requesting an exception to the following standard conditions of licence and expectation set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436:
- Condition of licence 13, which requires the licensee to implement a monitoring system to ensure that closed captioning is included in its broadcast signal and that the captioning reaches the distributor in its original form;
  - Condition of licence 16, which requires the licensee to provide audio description for all the key elements of Canadian information programs, including news programming; and
  - Expectation 3, which states that the Commission expects the licensee to display a standard described video logo and broadcast an audio announcement indicating the presence of described video before the broadcast of each described program, and to make information available regarding the described programs that it will broadcast.
24. ATN indicated that it is requesting the exceptions noted above for the same reasons that it cited in 2013. Since the licensee did not provide additional supporting evidence or arguments, the Commission finds that the licensee has not provided sufficient justification for the requested licence amendments.
25. In light of the above, the Commission **denies** the licensee's request for exceptions to standard conditions of licence 13 and 16, as well as expectation 3, set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436.

### **Canadian programming expenditures**

26. Provisions 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 under subsection 9(1) of the Act, the Commission has imposed conditions of licence requiring programming undertakings to contribute in various ways to the creation of Canadian programming, including CPE requirements. The Commission's general practice is to set CPE requirements for independent discretionary services that are not higher than those imposed on large ownership groups.

27. As noted above, ATN indicated that it would like to keep its CPE requirement at 15% if the Commission denies its request to benefit from the access rights formerly associated with ethnic Category A services. Over the past five broadcast years, the licensee has far exceeded its 15% requirement.
28. In its intervention, the CMPA argued that SATV's CPE requirement should be set according to its historical expenditure thresholds, consistent with the Commission's general practice.
29. The Commission notes that, although a higher level of CPE would benefit the Canadian broadcasting system, SATV was unprofitable for four of the last five broadcast years. It does not consider it appropriate to impose a high level of CPE on an unprofitable service. Consequently, the Commission considers it appropriate to keep SATV's CPE requirement at 15%. The Commission is of the view that such a threshold would ensure that the licensee continues to make a significant contribution to the production of Canadian programming. The Commission notes that this is a minimum threshold and that SATV may continue to exceed its regulatory CPE requirements as it has in the past. A **condition of licence** to that effect is set out in the appendix to this decision.
30. The broadcasting policy set out in subsection 3(1) of the Act also provides that the Canadian broadcasting system should reflect the linguistic duality of Canada and the special place of Indigenous peoples within Canadian society (subparagraph 3(1)(d)(iii)).
31. Therefore, 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 toward its CPE requirements for any 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 toward CPE as defined in Public Notice 1993-93 will be considered eligible for the credit.
32. 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.

33. Accordingly, **conditions of licence** reflecting these determinations are set out in the appendix to this decision.

## **Non-compliance**

### **Annual returns**

34. Subsection 9(1) of the *Discretionary Services Regulations* (as well as subsection 8(1) of the former *Specialty Services Regulations, 1990*) states that, on or before 30 November of each year, a licensee must file an annual return, including financial statements, for the previous broadcast year ending on 31 August.
35. For the broadcast years 2015-2016 to 2017-2018, the licensee filed its annual returns late and did not include any financial statements. In response to a request for information from the Commission dated 6 October 2020, ATN stated that it is virtually impossible to isolate the financial activities of one service from those of its 50 other services, since all of the information is documented in the same accounting system. It provided consolidated financial statements for the broadcast years in question and indicated that it intends to provide consolidated financial statements going forward.
36. The Commission considers the consolidated financial statements provided for the 2015-2016 to 2017-2018 broadcast years to be complete and acceptable. The licensee may continue to file consolidated financial statements going forward.
37. In light of the above, the Commission finds the licensee in non-compliance with subsection 8(1) of the *Specialty Services Regulations, 1990* for the 2015-2016 and 2016-2017 broadcast years, as well as with subsection 9(1) of the *Discretionary Services Regulations* for the 2017-2018 broadcast year for not filing its annual returns and financial statements in a timely manner.

### **Regulatory measures**

38. Although this is the licensee's first instance of non-compliance with regard to the filing of annual returns, the Commission is concerned that the issue is ongoing, despite the licensee's stated intention to adhere to its regulatory obligations. The Commission notes that the annual returns for broadcast years 2018-2019 to 2020-2021, as well as the financial statements for the 2020-2021 broadcast year, were all filed late. Moreover, the licensee has not yet filed any financial statements for the 2018-2019 and 2019-2020 broadcast years.
39. Therefore, the Commission finds it appropriate to impose a condition of licence requiring the licensee to file, by no later than 30 November 2022, the missing financial statements for the 2018-2019 and 2019-2020 broadcast years. A **condition of licence** to that effect is set out in the appendix to this decision.

## **Canadian content**

40. Pursuant to subsection 9(1) of the Act and in accordance with the many provisions of subsection 3(1) of the Act related to the reflection of Canadians, the requirements to contribute to the creation and presentation of Canadian programming and the requirement that the broadcasting system serves to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada, the Commission has imposed requirements on licensees related to the broadcast of Canadian programs.
41. ATN's condition of licence 3 as set out in Appendix 8 to Broadcasting Decision 2013-468 requires the licensee to devote to the exhibition of Canadian programs not less than 17% of the broadcast day.
42. After evaluating the television logs submitted by the licensee, the Commission determined that the licensee failed to respect this Canadian content requirement in the 2014-2015, 2015-2016, 2016-2017 and 2018-2019 broadcast years.
43. In response to a request for information from the Commission dated 6 October 2020, ATN provided a document detailing the number of broadcast hours for two programs that were not properly identified as Canadian programs. According to ATN, the correct Canadian content levels for those broadcast years are slightly higher, but it acknowledged that the levels were still below the required 17%. ATN added that it likely misidentified other programs but that it will be more diligent in identifying Canadian programs in the future.
44. To correct Canadian content levels identified by the Commission as part of a compliance assessment, a licensee must file amended program logs, which it has not done in this case. In any case, the amended Canadian content levels as suggested by the licensee still fall short of the 17% requirement.
45. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence 3 set out in Appendix 8 to Broadcasting Decision 2013-468 for the 2014-2015, 2015-2016, 2016-2017 and 2018-2019 broadcast years. The Commission notes that the licensee has also failed to broadcast a sufficient amount of Canadian programming in the 2019-2020 broadcast year.
46. In addition, the Commission encourages the licensee to file amended program logs if a correction is needed in the context of any future instance of apparent non-compliance regarding its levels of Canadian content.

## **Closed captioning**

47. Standard condition of licence 4 set out in Appendix 1 to Broadcasting Regulatory Policy 2011-443 requires licensees to caption 100% of English- and French-language programs broadcast over the broadcast day. In addition, standard condition of licence 5 set out in Appendix 1 to Broadcasting Regulatory Policy 2011-443 requires licensees to ensure that English- and French-language advertising, sponsorship and promotional message are captioned no later than the fourth year of the licence term (which corresponds to the 2016-2017 broadcast year for SATV). Closed captioning requirements do not apply to third-language programming.

48. In response to a request for information from the Commission dated 6 October 2020, the licensee indicated that it had not provided any closed captioning for its English-language programming aired during the current licence term. It explained that it does not have the equipment or software needed to provide closed captioning at an affordable price. However, it has since identified a more cost-effective solution for captioning its English-language programming. In addition, the licensee stated that it intends to close caption 100% of its English-language programming if the Commission approves its request regarding access right.
49. In the licensee's last licence renewal decision (Broadcasting Decision 2013-468), the Commission noted that "there are various ways of providing closed captioning (including outsourcing to an outside closed captioning provider) and that the licensee does not have to purchase new equipment or hire additional staff to ensure compliance with that condition of licence." The Commission notes that, while the licensee has indicated that it has identified a more cost-effective solution, the licensee implied that it would implement it only if the Commission approved the access rights that the licensee requested as part of this application. The Commission notes that these obligations are imposed on all licensees, and the requirement to comply is not contingent on any other obligations or rights. The suggestion that a licensee will comply with a standard regulatory obligation only if they are granted a particular right is disconcerting and the Commission is of the view that the licensee does not take its obligations regarding closed captioning seriously.
50. In light of the above, the Commission finds the licensee in non-compliance with standard condition of licence 4 set out in Appendix 1 to Broadcasting Regulatory Policy 2011-443 for the 2013-2014, 2014-2015, 2016-2017 and 2018-2019 broadcast years, as well as with standard condition of licence 5 for the 2016-2017 and 2018-2019 broadcast years.<sup>2</sup> In addition, the Commission notes that the licensee has not met its closed captioning requirements for the 2019-2020 broadcast year.

### **Regulatory measures**

51. The Commission is not confident that the licensee will take the necessary steps to comply with the closed captioning requirements in the next licence term. Accordingly, the Commission finds it appropriate to impose additional measures to monitor the licensee's compliance in this regard more closely.
52. Therefore, the Commission requires the licensee to file, no later than 90 days following this decision, a report indicating how it is complying with the closed captioning requirements set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436. In addition, beginning in the second quarter of the first year of the licence term, the licensee shall file quarterly compliance reports with the Commission identifying the titles of English- and French-language programs that were available in its inventory during the previous quarter, and whether or not each was accompanied by closed captioning for people who are hard of hearing. **Conditions of licence** to that effect are set out in the appendix to this decision.

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<sup>2</sup> The Commission notes that the licensee did not air any English-language programming during the 2015-2016 broadcast year. The closed captioning requirements do not apply to third-language programming.

## Audio description

53. Standard condition of licence 6 set out in Appendix 1 to Broadcasting Regulatory Policy 2011-443 states that the licensee is required to provide audio description for all the key elements of Canadian information programs, including news programming. “Audio description” refers to hosts or announcers reading aloud or describing the key textual and graphic information that is displayed on the screen during information programs.
54. In its application, the licensee stated that it does not provide audio description. In response to a request for information from the Commission dated 6 October 2020, it added that it intends to procure the most economical equipment and software to implement audio description, provided that the cost is not prohibitive. The Commission believes that the licensee is confusing the requirements for described video<sup>3</sup> with those for audio description,<sup>4</sup> since no additional cost or equipment is associated with providing audio description. The licensee must simply ensure that on-air talent is properly trained to provide audio description.
55. To ensure that the licensee provides audio description, the Commission finds it appropriate to require the licensee to file a report detailing its progress in providing audio description, in particular the steps it has taken to train its hosts or announcers, with clear examples of where textual or graphic elements have been described in its English- or French-language information programming. A **condition of licence** to that effect is set out in the appendix to this decision.

## Licence term

56. Since this is the first licence term in which SATV has been found in non-compliance with regulatory obligations, the Commission is of the view that the measures identified above are sufficient and that a short-term licence renewal would not be appropriate. Therefore, the Commission renews SATV’s broadcasting licence for a term of five years.

## Conclusion

57. In light of all of the above, the Commission **renews** the broadcasting licence for the third-language ethnic discretionary service ATN South Asian Television from 1 September 2022 to 31 August 2027. The terms, **conditions of licence**, expectations and encouragements for this service are set out in the appendix to this decision.
58. In addition, the Commission **denies** the licensee’s request to benefit from the access rights formerly associated with ethnic Category A services.

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<sup>3</sup> Described video, or video description, is a narrated description of a program’s main visual elements, such as settings, costumes and body language. The description is added during pauses in dialogue and enables the audience to form a mental picture of what is happening in the program. Described video typically uses a separate audio track.

<sup>4</sup> Audio description relies on a program host or announcer to provide a voiceover by reading aloud or describing key elements of programming such as text and graphics that appear on the screen. It is often used for information programming including newscasts, weather reports, sports scores and financial data.

59. Further, the Commission **denies** the licensee's request for exceptions to standard conditions of licence 13 and 16, as well as expectation 3, set out in Appendix 2 to Broadcasting Regulatory Policy 2016-436.

## Reminder

60. 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

- *Various discretionary services – Administrative renewals*, Broadcasting Decision CRTC 2021-286, 13 August 2021
- *ATN South Asian Television – Administrative renewal*, Broadcasting Decision CRTC 2020-243, 6 August 2020
- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016
- *The Wholesale Code*, Broadcasting Regulatory Policy CRTC 2015-438, 24 September 2015
- *Let's Talk TV – A World of Choice – A roadmap to maximize choice for TV viewers and to foster a healthy, dynamic TV market*, Broadcasting Regulatory Policy CRTC 2015-96, 19 March 2015
- *Exemption order respecting discretionary television programming undertakings serving fewer than 200,000 subscribers*, Broadcasting Order CRTC 2015-88, 12 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 pay and specialty Category A services – Licence renewals*, Broadcasting Decision CRTC 2013-468, 30 August 2013
- *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 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 2022-176

### Terms, conditions of licence, expectations and encouragements for the third-language ethnic discretionary service ATN South Asian Television

#### Terms

The licence will expire 31 August 2027.

#### 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, and in the conditions set out in the undertaking's broadcasting licence.
2. The licensee shall, in each broadcast year, devote at least 15% of the undertaking's previous year's gross revenues to the acquisition of or investment in Canadian programs.
3. Subject to condition 4, the licensee may claim, in addition to its Canadian programming expenditures:
  - a. a 50% credit against its Canadian programming expenditure requirement for expenditures on Canadian programming produced by an Indigenous producer and claimed as Canadian programming expenditures during that broadcast year; and
  - b. a 25% credit against its Canadian programming expenditure requirement for expenditures 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
    - the programming is produced in the province of Quebec and the original language of production is English; or
    - 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 on Canadian programming produced by Indigenous producers and by official language minority community producers, including the credits, reach a combined maximum of 10% of the undertaking's Canadian programming expenditure requirement.
5. With regard to Canadian programming expenditures
  - 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, in which 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 for that year in one or more of the remaining years of the licence term; and
  - 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. The licensee shall file, no later than 30 November 2022, the missing financial statements for the 2018-2019 and 2019-2020 broadcast years.
  7. The licensee shall, no later than 90 days following the decision, provide the Commission with a report indicating how it is complying with all closed captioning requirements 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.
  8. Beginning in the second quarter of the first year of the licence term, the licensee shall file quarterly compliance reports with the Commission identifying the titles of English- and French-language programs that were available in its inventory during the previous quarter, and whether or not each was accompanied by closed captioning for people who are hard of hearing. Such reports shall be approved by a senior officer of the licensee and filed with the Commission on the 15th day of the month following the end of each quarter.
  9. The licensee shall file a report detailing its progress in providing audio description, in particular the steps it has taken to train on-air talent, with clear examples of where audio content was described for its English- or French-language Canadian information programming. The licensee shall file an initial report no later than 15 days after the beginning of the second quarter of the first year of its licence term, and a follow-up report no later than 15 days after the end of the first year of its licence term.
  10. In the two years following the end of the licence term ending on 31 August 2022, the licensee shall report and respond to any Commission information requests relating to the expenditures on Canadian programming made by the licensee for the licence terms ending 31 August 2020, 31 August 2021 and 31 August 2022.

## Definitions

For the purposes of these conditions of licence:

**Indigenous producer** means an individual who self-identifies as Indigenous, which includes First Nations, Métis and 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 (OLMC) producer** 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 programming in English, have its head office in Quebec and be owned and operated by a resident of Quebec;
- b. if it produces original programming 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.