



Broadcasting Decision CRTC 2004-10

Ottawa, 21 January 2004

The Score Television Network Ltd. Across Canada

*Application 2002-0891-9
Public Hearing in the National Capital Region
26 May 2003*

The Score – Licence renewal

*In this decision, the Commission **renews** the broadcasting licence for the specialty television service known as *The Score*, from 1 March 2004 to 31 August 2010. The details regarding the licensee's specific proposals for the new licence term, and the conditions of licence and other obligations determined by the Commission are set out below.*

The application

1. The Commission received an application by The Score Television Network Ltd. for the renewal of the broadcasting licence for the national, English-language specialty television service known as The Score.
2. The Commission's general analysis with respect to its consideration of this and other applications heard at the 26 May 2003 Public Hearing for the licence renewal of specialty television services is set out in *Introduction to Broadcasting Decisions CRTC 2004-6 to 2004-27 renewing the licences of 22 specialty services*, Broadcasting Public Notice CRTC 2004-2, 21 January 2004 (Public Notice 2004-2).
3. The Commission received 51 interventions that specifically supported The Score's licence renewal application. In addition, 24 interveners opposed particular aspects of the application. The concerns raised by the opposing interveners are discussed in this decision.
4. Other interveners raised general concerns related to all the specialty television licence renewal applications considered as part of this public process. These concerns are discussed in Public Notice 2004-2.

5. On the basis of its review of this licence renewal application and having considered the interveners' comments, the Commission **renews** the broadcasting licence for The Score, from 1 March 2004 to 31 August 2010.¹ The licence will be subject to the conditions specified therein and to the conditions set out in the appendix to this decision.
6. As part of its licence renewal application, the licensee proposed to amend the condition of licence pertaining to its nature of service by adding to the list of categories from which it may draw programming. The licensee also proposed to amend the condition of licence related to its subscriber fee in order to increase its monthly wholesale rate by \$0.30. Finally, the licensee proposed to amend the definition of the broadcast day for the purposes of The Score's conditions of licence. The proposed amendments are discussed below.

Nature of service

Background

7. The Score initially began operation in 1994 as an alphanumeric service. In *Sportscope Plus – Approved*, Decision CRTC 96-610, 4 September 1996, the Commission granted the service a broadcasting licence to provide a national headline sports news programming service. The original condition of licence pertaining to the nature of service to be provided by the undertaking stated:

The licensee shall provide a national English-language specialty service that is dedicated solely to the broadcast of sports results and information in a video and textual form and shall draw its programs exclusively from category 1 (News) and category 6 (Sports), as set out in item 6 of Schedule 1 of the *Specialty Services Regulations, 1990*. The licensee shall not broadcast any live sports event coverage.

8. In Decision CRTC 2000-85, 24 March 2000 (Decision 2000-85), the Commission approved amendments to this condition of licence. The Commission permitted the licensee to devote up to 15% of its quarterly broadcast schedule to live sports coverage provided that sports results and information were displayed on part of the screen during live programming² and the licensee broke away from live programming at least once every fifteen minutes to present video highlights of sports events as well as sports results and information in a format that includes both audio and video components. The Commission also permitted the licensee to devote up to 10% of its quarterly programming schedule to regional programming.

¹ In *Administrative renewals*, Broadcasting Decision CRTC 2003-290, 21 July 2003, the Commission granted a six-month administrative renewal for The Score, from 1 September 2003 to 29 February 2004.

² The Score uses a ticker, an alphanumeric display that runs at the bottom or side of the screen during a live game.

The licensee's request

9. In its licence renewal application, the licensee proposed to add the following program categories to the list of program categories that may be broadcast by The Score:
 - 2(a) Analysis and interpretation
 - 2(b) Long-form documentaries
 - 5(b) Informal education/recreation and leisure
 - 8(b) Music video clips
 - 8(c) Music video programs
10. The licensee stated that it would accept a condition of licence limiting the amount of programming to be broadcast from these program categories. In each broadcast week, no more than 10% of its schedule would be drawn from program categories 2(a), 2(b) and 5(b), respectively, and no more than 5% from program categories 8(b) and 8(c), combined. The licensee affirmed that all the programming broadcast from each of the proposed program categories would be devoted to sports themes and subjects. According to the licensee, this programming would enhance its delivery of sports news and information.

Interventions

11. Rogers Broadcasting Limited (Rogers), CTV Specialty Television Inc. (CTV), CHUM Limited (CHUM) and TQS inc. (TQS) filed interventions that opposed the addition of the proposed program categories.
12. Rogers is the parent company of the licensee of the national English-language specialty service, SportsNet. CTV owns and controls the English-language specialty service known as The Sports Network (TSN). SportsNet focuses primarily on regional sports while TSN focuses primarily on national sports.
13. Among its many other broadcasting holdings, CHUM is the licensee of the national English-language specialty television service, MuchMoreMusic, and holds a 50% interest in its French-language counterpart, MusiMax. TQS also has many broadcast holdings, including the Télévision Quatre Saisons network, and a 20% interest in Canal Indigo, a national pay-per-view specialty television service.
14. All four parties expressed concern that approval of the licensee's request would expand The Score's nature of service beyond that of a headline sports news service. CHUM specifically opposed the addition of program categories 8(b) and 8(c) on the grounds that offering music programming is not part of The Score's mandate. Rogers and CTV contended that allowing The Score to broadcast programming from program categories 2(a), 2(b) and 5(b) would enable it become competitive with SportsNet and TSN, contrary to the Commission's one-per-genre policy.

The licensee's reply

15. In response to CHUM's concern, the licensee withdrew its request to add program categories 8(b) and 8(c). The licensee also withdrew its request with respect to program category 5(b). The licensee, nevertheless, maintained that categories 2(a) and 2(b) fall within its mandate as a sports news and information service. It argued that the addition of these categories would make The Score competitive with other sports services only on a small selection of programming.
16. The licensee stated that, if it received authority to broadcast programming from program categories 2(a) and 2(b), it would maintain its onscreen ticker displaying the latest news headlines all the time, not only during periods of live programming. It would also break away, on average, every fifteen minutes throughout the broadcast day to air simultaneous real time updates of sports news and highlights.
17. At the hearing, the licensee submitted that, although The Score's service has evolved over the years, it has always operated within its mandate to provide sports news and information. The licensee argued that the authorization to broadcast programming from categories 2(a) and 2(b) would contribute to improving its service while fulfilling this mandate.

The Commission's analysis and determination

18. In Decision 2000-85, the Commission permitted the licensee to broadcast a limited amount of live sports events coverage and regional programming. At the same time, the Commission clearly indicated that the licensee's mandate to provide a national headline sports news service had not changed. The Commission also imposed specific conditions on the broadcast of live programming to ensure that The Score's basic nature of service would not change and that it would remain primarily oriented to the presentation of sports highlights, results and information.
19. With respect to the licensee's present request, the Commission considers that programming drawn from program categories 2(a) and 2(b) may help the licensee to provide a better sports headline news service and attract a larger audience and advertisers. Accordingly, the Commission **approves** the licensee's request and adds program categories 2(a) and 2(b) to the list of categories from which The Score may draw its programming.
20. The Commission, however, considers that it is appropriate to limit the amount of programming that the licensee may draw from categories 2(a) and 2(b), combined, to no more than 10% of the licensee's quarterly broadcast schedule. The Commission is also imposing, as **conditions of licence**, the licensee's commitments to provide a continuous sports ticker during all its programming, and to break away from programming at least once every fifteen minutes throughout the broadcast day to provide sports results and information in a video and text form. The Commission is satisfied that these measures will ensure that the programming drawn from categories 2(a) and 2(b) will not permit The Score to become unduly competitive with SportsNet or TSN and that approval of

this request is consistent with the Commission's policy not to license a specialty service that would be directly competitive with another specialty service in the type of programming it provides. The Commission reminds the licensee that the programming drawn from program categories 2(a) and 2(b) must be consistent with The Score's mandate to broadcast "sports results and information in a video and textual form."

21. The revised **condition of licence** describing The Score's nature of service is set out in the appendix to this decision.

Wholesale rate

22. The licensee requested an amendment to its conditions of licence in order to increase the maximum wholesale rate it charges each exhibitor of the service by \$0.30, from \$0.10 per subscriber per month to \$0.40 per subscriber per month, when the service is carried as part of the basic service.
23. The licensee submitted that The Score has evolved since it was originally licensed in 1996. According to the licensee, the authorization granted to The Score in 2000 to broadcast coverage of live sports enabled it "to take the network to the next level". While the licensee claimed that the value of the programming offered by The Score has increased dramatically, it also acknowledged that it has experienced \$57 million in losses in its first licence term. At the same time, the licensee maintained that it is currently operating in a much more competitive environment and that it needs the proposed increase in its wholesale rate in order to provide enhancements to its sports news and information programming and to offer more live programming.
24. At the hearing, the licensee stated that, in each broadcast year of the new licence term, approximately \$13 million of the revenues generated by the proposed rate increase would be directed to new programming initiatives. Approximately \$8 million would be allocated towards the enhancement of sports news and information programming while approximately \$5 million would be spent supporting the introduction of enhanced live event programming. The licensee stated that, without a rate increase, it would be forced to abandon its live sports programming as well as its proposed new programming initiatives. The remaining revenues generated by the rate increase would be allocated to non-Canadian broadcasting expenses, other programming expenses and the licensee's profit before interest and tax (PBIT).

Interventions

25. Twenty-one parties filed interventions opposing the proposed rate increase.
26. The Canadian Cable Television Association (CCTA) argued that The Score has adequate financial resources to provide a level of service that would be consistent with its mandate without an increase in its wholesale rate. Star Choice Television Network Incorporated (Star Choice), the licensee of a national direct-to-home satellite distribution undertaking, also contended that the revenues available to The Score through its existing wholesale rate and advertising fees should be sufficient to provide a high quality service.

Star Choice further alleged that the licensee was asking for an increase in its wholesale rate in order “to take advantage of the Commission’s decision permitting it to air some live sports programming.”

27. The Canadian Cable Systems Alliance (CCSA), which represents 90 small and medium-sized cable broadcasting distribution undertakings (BDUs) across Canada, expressed concern that approval of the proposed increase in The Score’s wholesale rate would result in substantial new costs for its members without any benefit for their subscribers. According to the CCSA, increasing the price of the service would impede the ability of some cable BDUs to fulfil their obligation under section 3(t) of the *Broadcasting Act* “to provide efficient delivery of programming at affordable rates” and could force some small cable BDUs to drop The Score from their line-up.
28. In individual interventions, numerous distributors or their representatives echoed the concerns raised by the CCTA and the CCSA. Many of these interveners emphasized that the cost of any rate increase must be absorbed by the distributor or the consumer. They also suggested that a rate increase might cause some subscribers to cancel their services. MTS Communications Inc., the licensee of a cable BDU serving Winnipeg and surrounding communities in Manitoba, contended that the proposed rate increase would have a negative impact on its operation as a new entrant in the marketplace, regardless of whether the cost was absorbed by the consumer or the distributor.

The licensee’s reply

29. In response, the licensee submitted that the interveners had failed to recognize that The Score is “delivering real value that the customers of BDUs appreciate.” The licensee maintained that it is currently maximizing its advertising revenues and that its potential for expanding this source of revenues is less than expected by the interveners. While acknowledging the challenges faced by small cable BDU operators, the licensee contended that it should not be denied a rate increase because of their financial circumstances.

The Commission’s analysis and determination

30. The Commission considers that the basic monthly rate for specialty television services should be as affordable as possible for subscribers. As explained in Public Notice 2004-2, the Commission considers that specialty services should examine all possible means to increase revenues, particularly advertising revenues, before applying for a rate increase. In addition, the Commission expects that any additional revenues generated from a rate increase will be allocated to programming that is consistent with the licensee’s nature of service. The Commission considers that no portion of a rate increase should be directed to enhancing a licensee’s profitability, or to funding programming that does not support its nature of service.

31. In the present case, the Commission has taken into consideration the concerns expressed by the interveners with respect to the proposed wholesale rate increase and, in particular, its potential impact on subscribers. At the same time, given the current and projected financial results of the service, the Commission considers that it is appropriate that The Score be given some flexibility to be able to improve the quality of its programming, consistent with its nature of service as a headline sports news service. The Commission is, therefore, prepared to approve a portion of the proposed rate increase to fund incremental expenditures over the new licence term on new Canadian programming initiatives that will contribute to The Score's mandate to broadcast sports results and information in a video and textual form. In the Commission's view, the sports news and information programming initiatives proposed by the licensee, such as Score West and Sports Axxess, would improve the quality of the service and are consistent with the undertaking's nature of service. The Commission, however, is not prepared to grant any portion of the proposed rate increase that would fund expenditures directed to live sports programming, non-Canadian broadcasting expenses or other programming expenses, or that would contribute directly to enhancing the licensee's PBIT.
32. The Commission notes that the live programming broadcast by The Score is not an essential part of its licensed mandate. The Commission has permitted the licensee to broadcast limited coverage of live sports events in order to support The Score in fulfilling its mandate as a service that is primarily oriented to the presentation of sports highlights, results and information. The Commission considers that, if the licensee wishes to continue to air live sports programming during the new licence term, it should fund such programming from advertising revenues.
33. The Commission finds that a rate increase of \$0.04 per subscriber per month is justified for the service to have the flexibility to fund some of the sports news and information initiatives outlined by the licensee at the public hearing. The Commission, therefore, **approves in part** the licensee's request to amend its conditions of the licence in order to increase The Score's monthly wholesale rate. Accordingly, by **condition of licence**, commencing 20 April 2004, the Commission authorizes the licensee to charge BDUs distributing The Score a maximum of \$0.14 per subscriber per month when it is distributed as part of the basic service. The condition of licence is set out in the appendix.
34. The Commission expects that the licensee will spend the incremental revenues resulting from this rate increase on new Canadian programming initiatives that contribute to The Score's mandate as a headline sports news service. Beginning with the broadcast year ending 31 August 2005, the licensee must file with its annual return a separate report demonstrating that The Score has fulfilled this expectation, including the programming initiatives that were implemented and their cost.

Definition of the broadcast day

35. The licensee also asked the Commission to amend the definition of The Score's broadcast day for the purposes of its conditions of licence, from an 18 hour period, beginning at 6 a.m. each day, to a 24 hour period beginning at 6 a.m., each day.
36. At the hearing, the licensee stated that a 24-hour broadcast day would give it greater flexibility in scheduling its programming and permit it to better serve its viewers in western Canada.
37. The Commission is of the view that the proposed amendment to the definition of broadcast day is appropriate. Accordingly, the Commission **approves** the licensee's request to amend the definition of broadcast day for the purposes of The Score's conditions of licence. Effective 1 September 2004, the broadcast day shall mean a 24 hour period commencing at 6 a.m., each day, or any other period approved by the Commission.

Expenditures on Canadian programming

38. During the current licence term, the licensee has been required, by condition of licence, to expend on Canadian programs a minimum of 45% of the previous year's gross revenues with respect to The Score.
39. The Commission notes that the licensee recorded a negative PBIT in each year of The Score's first licence term. Taking into account The Score's past financial performance and consistent with the approach described in Public Notice 2004-2, the Commission has determined that increases in the licensee's requirements with respect to expenditures on Canadian programming are not warranted at this time. Accordingly, the Commission requires the licensee to maintain the level of its Canadian programming expenditures at 45% of the previous year's gross revenues. A **condition of licence** to this effect is set out in the appendix to this decision.

Regional reflection

40. The Score currently has regional offices in Toronto, Ottawa, Calgary and Vancouver. During the new licence term, the licensee plans to establish regional offices in Halifax, Montréal and Edmonton. The licensee considers that these offices will contribute to The Score's reflection of Canada's regional diversity.
41. The Commission expects the licensee to ensure that the programming aired by The Score reflects all Canada's regions.

Cultural diversity

42. As stated in Public Notice 2004-2, the Commission expects the licensee to endeavour, through its programming and employment opportunities, to reflect Canada's ethno-cultural and racial minorities and Aboriginal peoples. The Commission further expects the licensee to ensure that the on-screen portrayal of such groups is accurate, fair and non-stereotypical.
43. In its licence renewal application, the licensee stated that it provides training for its staff who are involved in the hiring process to ensure that they are aware of cultural factors.
44. The Commission expects the licensee to file a corporate plan on cultural diversity, within three months of the date of this decision. As outlined in Public Notice 2004-2, the corporate plan should include specific initiatives relating to corporate accountability, the reflection of diversity in programming and community involvement as well as how progress will be assessed with respect to each proposed initiative. The Commission expects the licensee to provide annual reports on its progress in achieving the plan's objectives. Such reports should be filed no later than 31 December of each year of the new licence term, starting December 2005.
45. As discussed in Public Notice 2004-2, the Commission further expects the licensee to incorporate persons with disabilities into its cultural diversity corporate planning and to ensure that this is reflected in its annual reports on cultural diversity.

Employment equity and on-air presence

46. Pursuant to section 5(4) of the *Broadcasting Act*, the Commission does not regulate or supervise matters concerning employment equity in relation to broadcasting undertakings with more than 100 employees, as they are subject to the *Employment Equity Act*. However, the Commission continues to regulate matters such as on-air presence.
47. The Commission expects the licensees of specialty television services to ensure that the on-air presence of members of the four designated groups (women, Aboriginal persons, persons with disabilities and members of visible minorities) is reflective of Canadian society, and that members of these groups are presented fairly and accurately. The Commission expects The Score Television Network Ltd. to take steps during the new licence term to address any gaps in the on-air presence of members of the four designated groups on The Score.

Service to persons who are deaf or hard of hearing

48. The Commission is committed to improving service to viewers who are deaf or hard of hearing, and has consistently encouraged broadcasters to increase the amount of closed captioned programming they broadcast. The Commission generally requires all broadcasters to offer a minimum percentage of closed captioned programs consistent with the nature of their services. Most English-language services must close caption at least 90% of their programming.
49. The licensee stated that it currently close captions 50% of its schedule, including all the programming broadcast between 6 p.m. and midnight, a time period when more than half of its viewing occurs. The licensee indicated that it would accept a condition of licence requiring that it close caption 90% of its programming in each broadcast day. The licensee specified, however, that this commitment was contingent upon receiving the full wholesale rate increase requested as part of its licence renewal application, as well as a grace period of 120 days to implement closed captioning at a 90% level.
50. The licensee did not make a commitment to the level of closed captioning it would provide if its proposed wholesale rate increase were not approved. According to the licensee, the cost of increasing the amount of closed captioning offered by The Score beyond its current level would be “staggering.” The licensee explained that it produces 90% of its own programming and that most of its programming has a very limited shelf life because it is broadcast the same evening or the following day. It added that most of its programming requires live captioning, which is very expensive.
51. The Commission reminds the licensee that it made a commitment to provide closed captioning as part of its original application for a broadcasting licence. In the Commission’s view, the cost of offering closed captioning is part of the expense of holding a broadcasting licence. Consistent with its general approach for English-language services, the Commission considers that it is appropriate to require the licensee to close caption 90% of all programming aired on The Score during the broadcast day.
52. The Commission, nevertheless, notes The Score’s relatively poor financial position and recognizes that a requirement to offer 90% closed captioning at the outset of the new licence term could have a negative impact on the service. The Commission has decided, therefore, to grant The Score an additional year to achieve this level of closed captioning and is imposing a **condition of licence** requiring the licensee to close caption not less than 90% of all programming aired during the broadcast day, beginning not later than 1 September 2005. The condition of licence is set out in the appendix to this decision.
53. The 90% obligation is based on the recognition that requiring 100% captioning at all times by condition of licence may not be reasonable. Thus, the obligation is designed to provide some flexibility to cover unforeseen circumstances (such as late delivery of

captions, technical malfunctions, or the lack of availability of captions for programs acquired outside North America), or programming where captioning may not be feasible, such as third-language programming.

54. The Commission expects that, during the new licence term, the licensee will focus on improving the quality, reliability and accuracy of its closed captioning, and work with representatives of the deaf and hard of hearing community to ensure that captioning continues to meet their needs.

Service to persons who are blind or whose vision is impaired

55. The Commission is committed to improving the accessibility of television programming for persons with visual impairments through the provision of audio description³ and video description (also known as described video).⁴
56. The Commission considers that sports services have a particular responsibility to ensure that their programming is as accessible as possible. The Commission expects that, during the new licence term, the licensee will:
 - provide audio description, wherever appropriate;
 - acquire and broadcast the described versions of a program, wherever possible; and
 - take the necessary steps to ensure that its customer service responds to the needs of viewers who have visual impairments.

World Wrestling Entertainment programs

57. The Commission has received complaints in the past concerning excessively violent and sexually suggestive content presented on some World Wrestling Entertainment (WWE) programs. In view of the fact that The Score broadcasts a WWE program known as “Smackdown”, the Commission asked the licensee to explain its policies concerning this and other controversial programming.

³ Audio description involves the provision of basic voice-overs of textual or graphic information displayed on the screen. A broadcaster providing audio description will, for example, not simply display sports scores on the screen, but also read them aloud so that people who are visually impaired can receive the information.

⁴ Video description, or described video, consists of narrative descriptions of a program’s key visual elements so that people who are visually impaired are able to form a mental picture of what is occurring on the screen.

58. In response, the licensee stated that it reviews the script of every “Smackdown” program before it is aired and asks WWE to remove any portion that the licensee finds is inappropriate. Each program must be edited to the licensee’s satisfaction before it can be presented on The Score. In addition, viewer advisories are broadcast at the beginning of the show as well as before and after each commercial break.
59. The Commission notes the steps the licensee has taken to address concerns about potentially inappropriate programs. As discussed in Public Notice 2004-2, the Commission expects the licensee to demonstrate responsibility in the scheduling of all programming intended for adult audiences, taking into account time zone differences between where a program originates and where it is received.

Compliance with industry codes

60. In accordance with its usual practice for specialty television services, the Commission is imposing **conditions of licences** requiring the licensee to adhere to industry codes related to sex-role portrayal, advertising to children, and the depiction of violence in television programming.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2004-10

Conditions of licence

1. (a) The licensee shall provide a national English-language specialty television service that is dedicated to the broadcast of sports results and information in a video and text form.
 - (b) The licensee shall draw its programming exclusively from the following categories, as set out in section 6 of Schedule I of the *Specialty Services Regulations, 1990*, as amended from time to time:
 - 1 News
 - 2 (a) Analysis and interpretation
 - (b) Long-form documentary
 - 6 (a) Professional sports
 - (b) Amateur sports
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
 - (c) No more than 10% of the licensee's quarterly broadcast schedule shall be drawn from categories 2(a) and 2(b) combined.
 - (d) The licensee may broadcast live sports events coverage, provided that the hours devoted to such broadcasting do not exceed 15% of the licensee's quarterly broadcast schedule.
 - (e) All programming shall be presented in such a manner that sports results and information are continually displayed on some portion of the screen.
 - (f) The licensee shall break into all programming other than headline sports news broadcasts at least once every fifteen minutes to present video highlights as well as sports results and information in a format that includes both audio and video components.
2. (a) In each broadcast year, the licensee shall devote to the exhibition of Canadian programs not less than 80% of the broadcast day and not less than 60% of the evening broadcast period.
 - (b) (i) The licensee shall devote to the exhibition of Canadian programs, not less than 50% of the hours devoted to live sports event coverage during the prime time period over the broadcast year.

- (ii) For the purposes of this section, the term ‘prime time period’ shall mean the total number of hours included in the period from 6 p.m. to 12 midnight, Monday to Friday, and 12 noon to 12 midnight, Saturday and Sunday.
3. In accordance with the Commission’s position on Canadian programming expenditures as set out in *New Flexibility With Regard to Canadian Program Expenditures by Canadian Television Stations*, Public Notice CRTC 1992-28, 8 April 1992, in *The Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-93, 22 June 1993 and in *Additional Clarification Regarding the Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-174, 10 December 1993:
- (a) In each broadcast year of the licence term, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 45% of the gross revenues derived from the operation of this service during the previous broadcast year.
- (b) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programs that is up to five percent (5%) less than the minimum required expenditure for that year calculated in accordance with this condition; 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.
- (c) In each broadcast year of the licence term where the licensee expends an amount on Canadian programs that is greater than the minimum required expenditure for that year calculated in accordance with this condition, the licensee may deduct:
- (i) from the minimum required expenditure for the following year of the licence term, an amount not exceeding the amount of the previous year’s over-expenditure; and
- (ii) from the minimum required expenditure for any subsequent broadcast year of the licence term, an amount not exceeding the difference between the over-expenditure and any amount deducted under (i) above.
- (d) Notwithstanding paragraphs (b) and (c) above, during the licence term, the licensee shall expend on Canadian programs, at a minimum, the total of the minimum required expenditures calculated in accordance with this condition of licence.
4. (a) Subject to subsection (b), the licensee shall not distribute more than twelve (12) minutes of advertising material during each clock hour.

- (b) Where a program occupies time in two or more consecutive clock hours, the licensee may exceed the maximum number of minutes of advertising material allowed in those clock hours if the average number of minutes of advertising material in the clock hours occupied by the program does not exceed the maximum number of minutes that would otherwise be allowed per clock hour.
 - (c) The licensee shall not distribute any paid advertising material other than paid national advertising.
5. The licensee may distribute separate regional programming in place of its national service to affiliated distribution undertakings, provided that the hours devoted to such regional programming do not exceed 10% of the licensee's quarterly program schedule.

The Commission reminds the licensee that it must file separate logs for each region and that regional programming must be logged under Program Class "REG".

6. Commencing 20 April 2004, the licensee shall charge each exhibitor of the service a maximum wholesale rate of \$0.14 per subscriber per month, where the service is carried as part of the basic service.
7. The licensee shall provide closed captioning for not less than 90% of all programs aired during the broadcast day, beginning not later than 1 September 2005.
8. The licensee shall adhere to the guidelines on gender portrayal set out in the Canadian Association of Broadcasters' (CAB) *Sex-role portrayal code for television and radio programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the Canadian Broadcast Standards Council (CBSC).
9. The licensee shall adhere to the provisions of the CAB's *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.
10. The licensee shall adhere to the guidelines on the depiction of violence in television programming set out in the CAB's *Voluntary code regarding violence in television programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the CBSC.

For the purpose of these conditions, the terms “broadcast day”, “broadcast month”, “broadcast year”, “clock hour” and “evening broadcast period” shall have the same meanings as those set out in the *Television Broadcasting Regulations, 1987*; “paid national advertising” shall mean advertising as defined in the *Specialty Services Regulations, 1990* and that is purchased at a national rate and receives national distribution on the service. Effective 1 September 2004, the term “broadcast day” shall mean a 24 hour day commencing at 6 a.m., each day, or any other period approved by the Commission.