



Broadcasting Decision CRTC 2004-14

Ottawa, 21 January 2004

Odyssey Television Network Inc.
Across Canada

*Application 2002-0953-7
Public Hearing in the National Capital Region
26 May 2003*

Odyssey Television Network – Licence renewal

In this decision, the Commission renews the broadcasting licence for the specialty television service known as Odyssey Television Network, 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 Odyssey Television Network Inc. for the renewal of the broadcasting licence for the national, ethnic specialty television service known as Odyssey Television Network (Odyssey).
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 18 interventions in support of Odyssey Television Network's licence renewal application. No party expressed opposition or specific concerns in connection with this application.
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 Odyssey Television Network, 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.

Nature of service

6. The Commission originally licensed Odyssey in *New Greek-language regional specialty service – Approved*, Decision CRTC 96-616, 4 September 1996. The service was authorized to provide a regional specialty television service having as its target audience the Greek-language communities of Ontario. In *Licence amendment*, Decision CRTC 97-257, 6 June 1997, the Commission authorized the distribution of the service across Canada.
7. Odyssey's current condition of licence pertaining to its nature of service states:
 - 1 (a) The licensee shall provide a national specialty service, with programming intended for the Greek communities of Canada. Subject to subsection (b), Odyssey shall draw 100% of its programs from Type A programs as defined in Schedule II of the *Specialty Services Regulations, 1990*, in the Greek language.
 - (b) On an exceptional basis during its news, public affairs or youth programs, the licensee may distribute brief segments in the English language to accommodate interviews and other segments from persons unable to converse in Greek. All such non-Greek language inserts are to be accompanied by a summary in the Greek language and shall not constitute more than 20% of any given program.
8. The term Type A programming corresponds with the definitions found in the Commission's policy on ethnic broadcasting set out in *A Broadcasting Policy Reflecting Canada's Linguistic and Cultural Diversity*, Public Notice CRTC 1985-139, 4 July 1985. The Commission reviewed the policy in 1999 and published its revised *Ethnic Broadcasting Policy*, Public Notice CRTC 1999-117, 16 July 1999 (Ethnic Policy). Under the current policy, what was formerly referred to as Type A programming is now known as third-language programming.

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

9. As part of the licence renewal process, the licensee stated that it would accept a revision to its current condition of licence describing its nature of service so as to ensure consistency with the revised Ethnic Policy. Accordingly, the Commission has amended Odyssey's condition of licence 1(a) to read as follows:

- 1 (a) The licensee shall provide a national ethnic specialty service, with programming intended for the Greek communities of Canada. Subject to subsection (b), 100% of its programs shall be Greek-language ethnic programs.

10. The full **condition of licence** on the nature of service is set out in the appendix to this decision.

Expenditures on Canadian programming

11. During the current licence term, the licensee has been required, by condition of licence, to expend on Canadian programs a minimum of 27% of the previous year's gross revenues with respect to Odyssey.
12. The Commission notes that the licensee recorded negative profit before interest and tax (PBIT) in each year of Odyssey's first licence term. Taking into account Odyssey'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 current 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 27% of the previous year's gross revenues. A **condition of licence** to this effect is set out in the appendix to this decision.

Exhibition of Canadian programming and the definition of the broadcast day

13. By condition of licence, the licensee must devote not less than 16% of the broadcast year, based on an 18-hour broadcast day, and not less than 16% of the evening broadcast period to the exhibition of Canadian programs. The Commission's analysis of the licensee's program logs for the 1999-2000 broadcast year revealed, however, that 13.9% of the programming aired during the broadcast year was Canadian, and that 29.92% of the programming aired during the evening broadcast period was Canadian.
14. In a letter dated 19 December 2002, the Commission advised the licensee that it was not in compliance with respect to the level of Canadian content to be aired over the broadcast year. The licensee responded that the shortfall was a result of its misinterpretation of the definition of broadcast day. It had incorrectly assumed that when Odyssey changed from a regional service to a national service in 1997, the definition of its broadcast day had also changed to one based on a 24-hour period. Once it became aware of the non-compliance, the licensee immediately rearranged its schedule to ensure that its service was operating in compliance with its Canadian content requirements.

15. During the licence renewal process, the licensee requested that the Commission amend the definition of the broadcast day for the purposes of Odyssey's 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. The licensee stated that, as a national service, Odyssey must offer programming to subscribers across Canada. According to the licensee, it does not have the financial resources to offer different feeds and must, therefore, develop one programming schedule that meets the needs of most of its subscribers. A 24-hour broadcast day would give it greater flexibility in scheduling its programming to meet its viewers' needs and ensure the availability of its service to its subscribers at any time in all time zones, particularly those in western Canada. The licensee also stated that, if this request were approved, it would increase the level of the Canadian programming aired by Odyssey by 1% in each broadcast year of the new licence term, based on at least a five-year licence term, up to a maximum of 24% over the broadcast year, and 22% during the evening broadcast period.
16. The Commission asked the licensee to explain how it would ensure that its Canadian programming was scheduled evenly throughout the broadcast day if its request for a 24-hour day were approved. The licensee responded that it plans to offer Canadian programs originating from different regions across Canada and to schedule these programs at various different times during the day to accommodate the different time zones and to provide viewers with the opportunity of a second showing of a particular program. The licensee also indicated that it would accept a condition of licence requiring that its Canadian programs be scheduled evenly throughout the broadcast day.
17. With respect to the request to amend the definition of broadcast day, the Commission finds that the proposed amendment is appropriate. Accordingly, the Commission **approves** the proposal to amend the definition of the broadcast day for the purposes of Odyssey'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.
18. With respect to the level of Canadian programming broadcast on Odyssey during the current licence term, the Commission is satisfied that the licensee's non-compliance was the result of an honest misinterpretation of the definition of broadcast day and that the licensee did not deliberately broadcast less Canadian programming than required by its condition of licence. Once the licensee was made aware of the problem, it acknowledged its non-compliance and immediately rectified the situation by amending its schedule and bringing its service into compliance.

19. The Commission notes that the licensee made a commitment to devote 24% of the broadcast year and 22% of the evening broadcast period to Canadian programs by the end of the licence term, if its request for a 24-hour broadcast day were approved. In light of the approval granted herein, the Commission expects the licensee to fulfil this commitment. At the same time, given the licensee's current financial capability, the Commission has decided to maintain the present levels of Canadian programming required by condition of licence, namely 16% of the broadcast year, and 16% of the evening broadcast period. A **condition of licence** to this effect is found in the appendix to this decision.
20. In accordance with the licensee's commitment, the Commission is also imposing a **condition of licence**, as set out in the appendix, requiring the licensee to schedule its Canadian programs evenly throughout each broadcast day.

Canadian independent production

21. The licensee stated that, during the current licence term, it had developed a good network of Canadian independent producers. It acquired programming from independent producers located primarily in Montréal, Vancouver and Calgary. The licensee plans to continue to seek co-operative production agreements with Canadian independent producers during the new licence term and to continue to provide them with access to its production facilities as well as its editorial expertise.
22. The licensee made a commitment that, during the new licence term, it will continue to make 30 minutes of its Sunday afternoon schedule available for programming produced by various philanthropic and community groups such as the Canadian Hellenic Congress, the Canadian Red Cross, hospitals and other organizations.
23. The Commission encourages the licensee to continue to acquire programming from Canadian independent producers during the new licence term.

Regional reflection and production

24. The Commission expects the licensee to ensure that the programming aired by Odyssey reflects all Canada's regions. The Commission also expects the licensee to provide opportunities for producers working outside the major production centres to supply programming for the service.

Cultural diversity

25. The licensee stated that, in view of the fact that Odyssey is an ethnic service targeted to Greek-language communities across the country, all its programming and other activities are necessarily geared to ensuring the reflection of Canada's cultural diversity.

26. The Commission expects all broadcasters, including the licensees of ethnic services, to endeavour, through their programming and employment opportunities, to reflect Canada's ethno-cultural minorities, Aboriginal peoples as well as persons with disabilities. While recognizing that Odyssey's programming is targeted specifically to Greek-language communities, the Commission expects the licensee to ensure that the on-screen portrayal of all groups is accurate, fair and non-stereotypical.

Employment equity and on-air presence

27. The Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources. The licensee stated that it has developed an employment equity plan. The licensee acknowledged that, as a Greek-language service, it must give priority to people who are proficient in that language when screening prospective employees. It, nevertheless, also stated that it will strive to staff positions that do not require proficiency in the Greek language from the four designated groups.
28. With respect to on-air presence, the Commission expects the licensees of specialty television services to ensure that 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 Odyssey Television Network Inc. 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 Odyssey.

Service to persons who are deaf or hard of hearing

29. 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.
30. In its original application for a broadcasting licence, the licensee stated that, if finances permitted, it would close caption at least one hour per week of its own local productions by the seventh year of operation. The licensee, however, was unable to provide closed captioning for any of the programming broadcast on Odyssey during its first licence term. It did install a telecommunication device for the deaf (TDD) system at its premises and provides a telephone service designed for people with hearing impairments.

31. The licensee stated that it would be unable to offer closed captioning of the Greek-language programming offered on its service during the new licence term. It explained that Greek characters are not yet available for captioning in Canada and that very little Greek-language programming is close captioned elsewhere. Furthermore, a survey of its subscribers revealed that there is currently little demand for closed captioning of its Greek-language programming. The licensee stated that, if Greek characters became available in Canada or the demand for closed captioning increased, it would reconsider its position.
32. The licensee also contended that it would not be practical or financially feasible to close caption its English-language programming because it is authorized to offer such programming only on an exceptional basis during its news, public affairs or youth programs and only in brief segments. It noted, however, that some films obtained from Greek producers contain subtitles in English and stated that it will continue to air these films, as they are available. The licensee stated that, if its financial resources permit, it would close caption at least one hour per week of its own local productions by the end of the second year of the new licence term.
33. The Commission recognizes the challenges faced by the licensee in obtaining and/or providing closed captioning for Greek-language programming. Furthermore, the Commission agrees that it would not be practical to require closed captioning of the brief segments of English-language programming broadcast on Odyssey. In accordance with the licensee's commitment, the Commission encourages the licensee to provide closed captioning of at least one hour in each broadcast week of its own local production, as finances permit.

Service to persons who are blind or whose vision is impaired

34. The Commission is committed to improving the accessibility of television programming for persons with visual impairments through the provision of audio description² and video description (also known as described video)³.
35. In its licence renewal application, the licensee stated that its secondary audio programming (SAP) channel is currently not available for providing described video because it is used for the distribution of a Greek-language radio station as a complimentary service to Odyssey's subscribers. According to the licensee, this radio service plays an important role for Odyssey because it attracts subscribers and contributes to their overall satisfaction with the specialty television service.

² 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.

³ 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.

36. At the same time, the licensee maintained that it recognizes the importance of providing accessibility to its service for persons who have visual impairments. The licensee stated that it will continue to work with programming suppliers to develop effective audio tracks for its programming. Once a substantial amount of described audio tracks are available for its programming, it will implement the steps to make such programming available to its subscribers. In the meantime, the licensee plans to explore opportunities for the simulcasting of popular programming on Odyssey and the Greek radio station.
37. The Commission expects the licensee to provide audio description, wherever appropriate.

Programming across time zones

38. As discussed in Public Notice 2004-2, the Commission expects the licensee to demonstrate responsibility in the scheduling of 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

39. In accordance with its usual practice for specialty television services, the Commission is imposing **conditions of licence** 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 2004-14

Conditions of licence

- 1 (a) The licensee shall provide a national ethnic specialty television service, with programming intended for the Greek communities of Canada. Subject to subsection (b), 100% of its programs shall be Greek-language ethnic programs.
 - (b) On an exceptional basis during its news, public affairs or youth programs, the licensee may distribute brief segments in the English language to accommodate interviews and other segments from persons unable to converse in Greek. All such non-Greek language inserts are to be accompanied by a summary in the Greek language and shall not constitute more than 20% of any given program.
2. (a) In each broadcast year, the licensee shall devote to the exhibition of Canadian programs not less than 16% of the broadcast day, and not less than 16% of the evening broadcast period.
 - (b) The licensee shall schedule its Canadian programs evenly throughout each broadcast day.
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 27% 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 eight (8) 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.
5. 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).
6. 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.
7. 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*; 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.