



Broadcasting Decision CRTC 2006-380

Ottawa, 18 August 2006

CHUM Limited
Across Canada

Application 2005-1552-0
Public Hearing in the National Capital Region
1 May 2006

MuchMusic – Licence renewal

*In this decision, the Commission **renews** the broadcasting licence for the specialty programming undertaking known as MuchMusic from 1 September 2006 to 31 August 2013. 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 CHUM Limited (CHUM) to renew the broadcasting licence, which expires 31 August 2006, for the national, English-language specialty programming undertaking known as MuchMusic.
2. On the basis of its review of this licence renewal application and having considered the interventions received, the Commission **renews** the broadcasting licence for MuchMusic, from 1 September 2006 to 31 August 2013. The licence will be subject to the **conditions** specified therein and to the **conditions** set out in the appendix to this decision.
3. CHUM proposed three amendments to its licence for MuchMusic. It proposed to:
 - amend the definition of “music-related” contained in the definitions section of its current licence;
 - amend condition of licence 2 to reduce the amount of weekly programming devoted to music videos (category 8(b) programming) from 65% to 50%; and
 - simplify condition of licence 4, which relates to feature films (category 7(d) programming), by removing specific references to particular types of films.
4. The Commission received 15 interventions in this proceeding specifically in support of MuchMusic’s licence renewal application. The Commission also received 16 interventions raising concerns regarding CHUM’s proposed licence amendments. The concerns raised by the interveners are discussed later in this decision.

Nature of service

5. MuchMusic's current condition of licence 1 reads as follows:
 1. The licensee shall provide a national, English-language specialty service consisting only of music or music-related programming, except as provided by condition of licence No. 5.
6. It is specified elsewhere in MuchMusic's conditions of licence that the term "music-related", as employed in condition of licence 1, "shall be defined as about the music or recording industries, or about musical artists, concerts and musical performances, compositions or events."
7. In its renewal application, the licensee requested that its licence be amended by replacing the existing definition of "music-related" with the following:

"music-related" shall be defined as about music or the music or recording industries, or about or featuring musical artists, concerts and musical performances, compositions or events.
8. In its supplementary brief to its renewal application, CHUM stated that the current definition of "music-related" restricts MuchMusic from airing a wide range of programming that would otherwise be appropriate for a music-oriented specialty service. Furthermore, CHUM noted that its proposal to redefine the term "music-related" mirrors the amendment to the definition of "music-related" as approved by the Commission for the MuchMoreMusic specialty service in *MuchMoreMusic – Licence renewal*, Broadcasting Decision CRTC 2004-15, 21 January 2004 (Decision 2004-15). CHUM submitted that applying the MuchMoreMusic definition to MuchMusic would allow the service to offer more attractive programming to its target audience and put MuchMusic on an even footing with other music-oriented specialty services.
9. In response, opposing interveners noted that the revised definition would allow MuchMusic to play a broader range of movies, many of which might be unrelated to music. One intervener, Mr. Peter Friedenberg, noted that the proposed revision would allow MuchMusic to become more like MuchMoreMusic.
10. The Canadian Film and Television Production Association (CFTPA) stated that it would support the proposed revision provided CHUM was willing to obtain and air a certain minimum amount of original Canadian production from Canadian independent producers. The CFTPA suggested that a commitment of 50% of original Canadian independent production, as a minimum percentage of all programming, would be an appropriate level. The CFTPA also recommended that the Commission require CHUM to establish an arrangement with the independent production community with respect to "terms of trade", with a view to ensuring transparency and fairness in the licensing of programming.

11. In its reply to this intervention, CHUM argued that imposition of the minimum level of original Canadian independent production would oblige MuchMusic to substantially alter the types of Canadian programming that it airs, as the service would have to rely on “programming produced from limited artist-related material acquired from third parties.” CHUM also submitted that very few analog services have conditions of licence that require them to exhibit a set amount of programming that is acquired from the independent production sector. Lastly, CHUM noted that the Commission did not impose such a condition of licence on either MuchMoreMusic or Country Music Television (CMT) when those specialty services were granted levels of flexibility similar to that requested by CHUM for MuchMusic.
12. In the Commission’s view, CHUM’s proposed amendment would enable MuchMusic to offer more attractive programming to its target audience, while continuing to ensure that it remains a music and music-related specialty service. The Commission is also satisfied that this amendment will not fundamentally alter the service nor allow it to become directly competitive with other specialty services. Accordingly, the Commission **approves** the new definition of “music-related” proposed by the licensee. The new definition is set out in the **conditions** appended to this decision.
13. With respect to the CFTPA’s recommendation that there be a minimum required level of original independent Canadian production in MuchMusic’s programming, the Commission recognizes that music video specialty services such as MuchMusic produce much of their programming in-house. As determined by the Commission in Decision 2004-15 in the case of MuchMoreMusic, the Commission finds that it is unnecessary to impose a condition of licence on MuchMusic at this time with regard to independent production.
14. As for the CFTPA’s recommendations with respect to terms of trade, and as stated 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), the Commission considers that terms of trade agreements between broadcasters and the CFTPA would be to the benefit of all elements of the Canadian broadcasting system, and encourages the establishment of such agreements.

Music video programs

15. The licensee proposed to reduce, from 65% to 50%, the proportion of MuchMusic’s weekly schedule that is devoted to music videos.
16. CHUM noted that, when it launched 21 years ago, MuchMusic was one of the few places Canadians could go to watch music videos. CHUM submitted that, today, music videos are available from numerous other sources, including television, DVDs, the Internet and mobile phones. CHUM argued that, with video content of all types widely available on so many platforms, and given the advantages that these new platforms offer, today’s youth are no longer looking to specialty services exclusively for videos. To support this position, MuchMusic noted that tuning to music video programming on MuchMusic has

been in decline for some time. MuchMusic stated that it has been obliged to respond by steadily reducing the amount of videoflow programming it airs from 87% of its programming schedule in 2000 to a level that is now much closer to the current 65% regulatory minimum.

17. To support its argument regarding the increased competitive pressures it now faces, CHUM provided a research report prepared by Communications Management Inc. The report, entitled *MuchMusic at 21: Facing the challenges of a 'three screen' world*, presented evidence of the increased usage of computers, cell phones, portable digital music players and the Internet by its target demographic.
18. CHUM also noted the Commission's approval of similar requests by other music-oriented specialty services for authorizations to reduce the proportion of their schedules devoted to music videos. Specifically, the licensee cited Decision 2004-15, in which the Commission approved a request by CHUM to reduce from 65% to 50% the percentage of the weekly schedule of MuchMoreMusic that must be devoted to music videos, and *Country Music Television – Licence amendment*, Broadcasting Decision CRTC 2006-52, 28 February 2006, in which the Commission approved an application by Country Music Television Ltd. to reduce from 70% to 50% the minimum amount of programming aired by its service, CMT, that must be devoted to music video clips.
19. Several interveners opposed CHUM's proposed reduction in the use of music videos on MuchMusic. These interveners, who generally expressed a preference for music videos over other music-related programming, were generally agreed that the reduction would be contrary to MuchMusic's nature of service as a music and music-related service. One argued that, if MuchMusic wished to decrease its music video content, it should relinquish its licence to play music videos and allow the Commission to give it to someone else. Others argued the minimum level of music videos should be raised to 75%. In the view of some parties, the amendment would also have a negative impact on Canadian talent by diminishing the airplay and exposure received by Canadian artists for their music videos. One intervener argued that the music videos CHUM does play focus too greatly on Top 40 hits, at the expense of Canadian artists in the "indie" category.
20. The Canadian Independent Record Production Association (CIRPA) expressed concern that approval of the requested amendment would result in a decrease in the overall airplay of Canadian music videos. In particular, CIRPA submitted that a reduction in music video programming may result in fewer overall appearances by independent Canadian artists on MuchMusic. In CIRPA's view, the amendments would not affect top tier Canadian talent as much as it would affect developing Canadian talent. Consequently, CIRPA proposed the introduction of a condition of licence that would give independent artists "proportional airplay representation" and would ensure that independent music video play is "not relegated to low ratings periods or otherwise ghettoized."

21. In its reply to interventions, CHUM submitted that, while the overall amount of videos on the service may decrease, independent artists will continue to receive broad exposure on MuchMusic as a substantial portion of the service's music video programming will be sourced from the independent sector. By way of example, CHUM noted that, during the 2005 broadcast year, almost 70% of the Canadian music videos broadcast by MuchMusic featured the performances of independent artists. CHUM added that, over the last licence term, airplay of independent music videos increased significantly. According to the licensee, it would be inappropriate to impose additional requirements, as proposed by CIRPA, given MuchMusic's strong contribution to the support of independent artists. It added that the definition of Canadian content used by the Commission would, in any case, prevent MuchMusic from simply relying on music videos by established artists because many in that category of music video are produced outside of Canada and do not qualify as Canadian.
22. The Commission acknowledges CHUM's concerns that increased competition from various platforms for music video audiences has reduced the size of its music video audience. The Commission notes that other music specialty services, such as MuchMoreMusic and CMT, have also experienced a reduction in the viewing of their programming devoted to music videos, and have had their weekly music video obligations reduced to 50%. As such, the Commission considers that a similar reduction in the required minimum proportion of weekly programming devoted to music videos by MuchMusic is appropriate.
23. The Commission also considers that additional non-music video programming will serve to promote and provide exposure to Canadian artists, independent or otherwise. The Commission notes in this regard the programs cited by MuchMusic, such as *Kane*, *Fandemonium*, *Caught in the Crossfire* and *Much In Your Space*.
24. With respect to CIRPA's proposed requirement that MuchMusic give proportional airplay representation to independent artists, the Commission notes that independent artists have featured prominently on MuchMusic over the last licence term and expects CHUM to ensure that this continues. Regarding CIRPA's concern that independently produced music videos would be relegated to low ratings periods, the Commission is satisfied that the existing condition of licence 8, which requires the licensee to schedule its Canadian music videos evenly throughout each broadcast week and in a reasonable manner throughout each broadcast day, will continue to ensure that this does not occur.
25. The Commission considers that reducing the proportion of MuchMusic's schedule that is devoted to music videos will allow the service to offer programming that better reflects the preferences of its target audience while continuing to promote Canadian artists and to provide new programs that focus on music. The Commission is also satisfied that this amendment will not fundamentally alter the service nor allow it to become directly competitive with other specialty services. Accordingly, the Commission **approves** the proposed reduction, from 65% to 50%, in the proportion of MuchMusic's weekly schedule that must be devoted to music videos. This reduction is reflected in the amended **condition of licence 2**, as set out in the Appendix to this decision.

Canadian programming expenditures

26. While MuchMusic is not currently subject to a Canadian programming expenditure (CPE) requirement, an existing condition of licence requires it to contribute at least 7% of the previous year's gross revenues to VideoFACT, a music video production fund that CHUM set up in 1984 to coincide with the launch of MuchMusic.
27. Traditionally, where the licensee of a specialty service dedicated to music, in the context of a licence renewal application, has applied for a decrease in the minimum level of music video clips to be broadcast, the Commission has imposed a CPE requirement to ensure that direct expenditures allocated by the licensee to the acquisition and production of Canadian programs remains consistent with the nature of the service and to counterbalance the reduction of music video clip programming from the service's schedule. In response to a deficiency request from the Commission, CHUM stated that, with the inclusion of its 7% required contribution to VideoFACT, its expenditures on Canadian programming during the current licence term have equalled 33% of the gross revenues earned by MuchMusic and that its projections for each year of the next licence term reflect a CPE representing at least 33% of the previous year's gross revenues during each year.
28. In an intervention, the Association des Producteurs de Films et de Télévision du Québec (APFTQ) submitted that the imposition of a 33% CPE requirement, of which 7% should be directed to VideoFACT, would be appropriate.
29. In its intervention, the Canadian Association of Broadcasters (CAB) commented generally on the Commission's recent approach to calculating a licensee's CPE. The CAB argued that it is not appropriate that the Commission use historical profitability levels achieved in an analog distribution environment to establish CPE requirements for a future period, given the uncertainty of the transition to digital and high definition (HD) distribution and the reality of the new competitive environment. According to the CAB, to do so could threaten the ability of individual services to adapt as required.
30. In its reply to interventions, CHUM confirmed that it was prepared to adhere to a requirement that it direct 33% of MuchMusic's gross revenues to CPE, of which 7% would be directed to VideoFACT.
31. In the Commission's view, in light of the amendments authorized in this decision, in particular that to condition of licence 2 which permit the licensee to reduce to 50% from 65% the proportion of MuchMusic's weekly schedule devoted to music video programming, it is appropriate that CHUM be required, as are the licensees of other specialty services, to adhere to a condition of licence specifying a minimum annual CPE requirement.

32. Consistent with the foregoing, and taking into account the financial circumstances of MuchMusic, the Commission considers that an expenditure on Canadian programming of 33%, including 7% to VideoFACT, of the previous year's gross revenues is appropriate. The licensee shall, therefore, by **condition of licence**, devote to the investment in or the acquisition of Canadian programs, during each broadcast year, at least 33% of the previous year's gross revenues. This condition of licence is set out in the appendix to this decision.

Music-related feature films

33. In MuchMusic's renewal application, CHUM requested that its existing condition of licence 4, which pertains to the distribution of music-related feature films be replaced. This condition reads as follows:
4. The licensee shall not distribute more than six hours of music-related feature films - Category 7(d) in each broadcast week. Each feature film shall be from one of the following categories:
- (a) concert films and documentaries;
 - (b) music artists' biographies;
 - (c) pop/rock operas and plays; or
 - (d) feature films that have a minimum music: spoken word ratio of 60:40, in accordance with the following:
 - i) where synchronized spoken word occurs within a film, the duration of such dialogue will be counted as spoken word for the purposes of the 60:40 music to spoken word test;
 - ii) where synchronized spoken word occurs within a film, accompanied or enhanced by background music, the duration of such dialogue will be counted as spoken word for purposes of the 60:40 test;
 - iii) where music occurs in a film, and is not used as background music for synchronized spoken word, the duration of such music will be counted as music for purposes of the 60:40 test;
 - iv) where music occurs within a film and small amounts of non-synchronized dialogue are present within such music, the duration of such music will be counted as music for purposes of the 60:40 test.

34. MuchMusic proposed that the existing condition be replaced by the following condition of licence:

The licensee shall not broadcast more than six hours of music-related feature films – Category 7(d) in each broadcast week.

35. In the supplementary brief to its renewal application, CHUM stated that the current restrictions were introduced at a time when there were a limited number of pay or specialty services that offered feature film programming. In CHUM's view, the offering of movie-based programming has since become widespread due to pay-per-view, video-on-demand (VOD) and the numerous services which the Commission has licensed in the intervening years to provide feature film programming.
36. Moreover, CHUM submitted that the restrictive nature of the current condition of licence severely limits the types of movies that MuchMusic can air and that, as a consequence, MuchMusic rarely broadcasts any feature films. CHUM noted that if its proposed amendment were approved, MuchMusic would still be restricted to the broadcast of "music-related" movies. It added that, because the six hour limit would be retained, feature film programming would still make up a maximum of 3.6% of the broadcast week.
37. Two interveners commented on this proposal. The CFTPA supported MuchMusic's request to be permitted to air a wider range of feature films provided that the service committed to airing at least 50% Canadian films, whether intended for theatrical or television distribution. Peter Friedenberg, however, expressed concern that the revision would allow MuchMusic to air a broader range of movies which are not particularly related to music.
38. In its reply to interventions, CHUM indicated that, if the amendment were approved, MuchMusic would begin to air a wide variety of music-related feature movies, many of which would be acquired from independent Canadian producers. CHUM expressed concern, however, that a condition of licence requiring that a specific percentage of feature films aired by MuchMusic be Canadian would unduly restrict the number of movies the service would be able to broadcast.
39. CHUM stated that, given the associated costs, it was unlikely to be involved in the creation of any significant number of new feature films during the new licence term, and that the vast majority of movies it would likely air would consist of after-market acquisitions. CHUM expressed concern that there are not a sufficient number of music-related Canadian films in existence that are appropriate to its service to allow achievement of the CFTPA's recommended level. Thus, CHUM did not believe that a condition of licence requiring a specific level of Canadian features would be appropriate.

40. The Commission considers that greater flexibility for MuchMusic in the selection of music-related feature films would be appropriate. In the view of the Commission, the existing condition of licence may prevent MuchMusic from airing feature films that may be appropriate to its service. In addition, the Commission notes that MuchMusic would still be restricted to the broadcast of music-related feature films and that the existing limit of six hours weekly represents a relatively small portion of the broadcast week. The flexibility that would be afforded to MuchMusic under the proposed amendment would also be consistent with that granted by the Commission to other music specialty services.
41. Moreover, the Commission does not consider it appropriate or necessary at this time to impose a requirement that MuchMusic air a minimum proportion of Canadian feature films, given that MuchMusic has not proposed to increase the number of hours per week of feature films that it may broadcast.
42. Accordingly, the Commission **approves** the licensee's proposed revision to the condition of licence respecting music-related feature films.

Regional reflection and independent production

43. Section 3(1)(i)(v) of the *Broadcasting Act* (the Act) states that the programming provided by the Canadian broadcasting system should "include a significant contribution from the Canadian independent production sector." The Commission's concern is to ensure that independent production companies unaffiliated with the licensee, including producers from outside the major centres, have reasonable access to the licensee's program schedule.
44. CHUM stated that MuchMusic's programming reflects a commitment to the richly diverse cultural expression found in all of Canada's regions and peoples. By way of example, it cited *The MuchMusic VJ Search*, a program that has made stops in over 30 cities and communities across the country, *Going Coastal*, a combination of its *MuchEast* and *MuchWest* services, *6 Canadians on a Bus*, and a visit by VJs George Stroumboulopoulos and Scott Moffat to the Arctic to discover and connect with the youth and vistas of Canada's north.
45. Consistent with the Commission's objective of promoting greater regional reflection and increasing the exhibition of programming produced outside of the major production centres of Vancouver, Toronto and Montréal, it expects the licensee to ensure that the programming aired by MuchMusic continues to be broadly reflective of all of Canada's regions, and that producers from outside the major production centres have the opportunity to produce programming for its service.

Reflection and portrayal of diversity

46. CHUM noted that, over the current licence term, MuchMusic has engaged in major annual programming initiatives to mark important dates such as Black History Month, Aboriginal Day and the International Day for the Elimination of Racism. MuchMusic also sponsored annual initiatives such as Rock Against Racism, participated in major

conferences that promote diversity in broadcasting, such as Innoversity, and donated air time to organizations such as the Urban Alliance on Race Relations. The Commission considers all such efforts to be worthy endeavours and commends MuchMusic for its leadership in this area.

47. The Commission expects the licensee to continue, through its programming and employment opportunities, to reflect Canada's ethno-cultural minorities, Aboriginal peoples and persons with disabilities. The Commission further expects the licensee to ensure that the on-screen portrayal of such groups is accurate, fair and non-stereotypical, and reflective of Canadian society.
48. The Commission notes in this regard that MuchMusic is subject to CHUM's corporate cultural diversity plan, which sets out specific commitments relating to corporate accountability, reflection of diversity in programming, and community involvement as they relate to presence and portrayal of diversity. MuchMusic also adheres to the policies, procedures and initiatives of the CHUM Television Cultural Diversity Best Practices Plan. Accordingly, the Commission expects the licensee to continue to contribute to diversity, to ensure that the programming broadcast on MuchMusic continues to showcase a diverse range of talent, and to implement the commitments set out in its corporate cultural diversity plan.

Employment equity; and on-air presence

49. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.
50. With respect to on-air presence, the Commission expects the licensees of specialty 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.
51. The Commission expects CHUM 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 MuchMusic, particularly with respect to persons with disabilities.

Service to persons who are deaf or hard of hearing

52. CHUM submitted that, in the next licence term, a condition of licence requiring MuchMusic to caption at least 90% of its non-music programming would be appropriate. During the deficiency process, the Commission asked the licensee to comment on the impact of a requirement that MuchMusic caption 90% of all programming, as opposed to 90% of non-music programming. CHUM replied that captioning continues to be a challenge for music videos due to the high cost and the time required to caption its

extensive music video library. While noting that it has made progress in this regard over the course of the current licence term, CHUM stated that captioning all music videos would be a major expenditure, and that the cost of captioning 90% of all programming would be prohibitive.

53. In an intervention, Mr. Joe Clark of Toronto opposed the renewal of MuchMusic's licence unless "stringent accessibility provisions" were attached with respect to captioning and description. Mr. Clark stated that MuchMusic has sufficient resources to caption 90% of all programming over the broadcast day and should be required to do so. In its intervention, Captioning Consumers of Canada (Captioning Consumers) stated that 100% of MuchMusic's programming should be captioned and further submitted that the current quality of MuchMusic's captioning is insufficient.
54. In its reply to interventions, CHUM reiterated its commitment to caption at least 90% of its non-music video programming on a going forward basis. It also re-stated that captioning every music video would require significant resources and noted that, if CHUM's request to reduce the minimum amount of music video programming to be aired weekly was approved, the level of captioning on MuchMusic would, by definition, increase, given the higher amount of non-music video programming. Further, CHUM noted that all VideoFACT-funded videos, and music videos contained within certain programs, such as MuchonDemand, are captioned.
55. With respect to the quality of captioning, and the use of roll-up and pop-up captioning, CHUM stated that its captioning department and real-time captioning supplier follow the captioning manual prepared by the CAB, in consultation with the deaf and hard of hearing community, and which sets uppercase letters as the standard. CHUM added that the captioning manual also sets out specific guidelines for the proper use of roll-up and pop-up captioning. Pursuant to these guidelines, the roll-up format is to be used for live captioning, and for off-line captioned programs that have a live flavour, such as entertainment and news magazines. CHUM stated that roll-up captioning is not well suited to dramatic and certain other types of programming and that it makes use of pop-up captioning where appropriate and in accordance with established CAB guidelines.
56. 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. In the Commission's view, MuchMusic has sufficient financial resources to implement a programming schedule with a greater amount of captioned programming. The Commission acknowledges, however, that MuchMusic will require time to upgrade its music video library.
57. Consistent with the licensee's commitment and with the Commission's general approach for English-language services, the Commission has imposed a **condition of licence** requiring the licensee to close caption 90% of all non-music programming, including presentations by program hosts, aired during the broadcast day in each of the first five

years of the licence term. Beginning in the sixth year of its licence, the Commission requires the licensee to close caption 90% of all programming, including music videos, aired during the broadcast day and for the duration of its licence term. The condition of licence is set out in the appendix to this decision.

58. With respect to the concerns raised by Captioning Consumers and by Mr. Clark, the Commission notes that it is currently reviewing its approaches to closed captioning, with a view to improving the quantity and quality of captioning in the Canadian broadcasting system, as set out in *Review of certain aspects of the regulatory framework for over-the-air television*, Broadcasting Notice of Public Hearing CRTC 2006-5, 12 June 2006.
59. The Commission also expects the licensee to focus on improving the quality, reliability and accuracy of its closed captioning during the new licence term, and to 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

60. The Commission is committed to improving the accessibility of television programming for persons with visual impairments through the provision of audio description and video description (also known as described video). As indicated in Public Notice 2004-2, in setting described video obligations for specialty services, the Commission's focus has been on services featuring those types of programming, such as drama, documentary and children's programs, that best lend themselves to description.
61. The licensee stated that CHUM's programming services follow guidelines governing the use of voice-overs to accompany on-screen text information. It further indicated that it is CHUM's policy to inform existing and new producers about the importance of accessibility to television for all people. CHUM had also undertaken to ensure that all on-air hosts are aware of the issues surrounding service to the visually impaired and that, whenever appropriate, hosts verbalize visual elements.
62. In response to the intervention by Mr. Clark, CHUM acknowledged that MuchMusic could be technically capable of providing descriptive video. It noted, however, that this would involve a significant capital investment which, given the nature of the service, CHUM did not believe to be appropriate at this time. MuchMusic's programming in the new licence term will continue to consist mainly of music videos, performances and interviews. In the licensee's view, these are types of programs that, unlike drama, do not benefit particularly from description. Consequently, CHUM stated that requiring MuchMusic to air a guaranteed minimum number of hours of described programming would not be appropriate.

63. Given the nature of MuchMusic's programming, and consistent with the approach adopted in Public Notice 2004-2, the Commission does not believe it is appropriate to impose specific conditions of licence with respect to video description at this time. Nevertheless, the Commission encourages the licensee to describe a portion of its music video and drama programming and expects the licensee, during the new licence term, to:
- provide audio description wherever appropriate;
 - acquire and broadcast the described versions of its program wherever possible; and
 - take the necessary steps to ensure that its customer service is responsive to the needs of persons whose vision is impaired.

Programming delivered across time zones

64. In *Policy on violence in television programming*, Public Notice CRTC 1996-36, 14 March 1996, the Commission noted concerns expressed by parties that programs originating in certain time zones were being delivered by satellite to viewers in other time zones at hours that would be considered as inappropriate for their broadcast, based on the programs' content. The Commission encourages licensees whose services are distributed over various time zones to consider viewers in all the time zones served and offer the requisite protection when certain programs are scheduled.
65. The Commission wishes to underscore the importance it places on each broadcaster according proper sensitivity to the concerns of its viewers with respect to the scheduling of programming intended for adult audiences, taking into account the time zone differences between where a program originates and where it is received. The Commission expects licensees to demonstrate responsibility, particularly in responding to any complaint.

Compliance with industry codes

66. 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 in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2006-380

Conditions of licence

1. (a) The licensee shall provide a national, English-language specialty programming service consisting only of music or music-related programming, except as provided by condition of licence No. 5.
- (b) The programming must be drawn exclusively from the following categories, as set out in Schedule 1 to the Specialty Services Regulations, 1990, as amended from time to time:
 - 2 (a) Analysis and interpretation
 - (b) Long form documentary
 - 7 (a) Ongoing dramatic series
 - (c) Specials, mini-series or made-for-TV feature films
 - (d) Theatrical feature films aired on TV
 - (e) Animated television programs and films
 - 8 (a) Music and dance other than music video programs or clips
 - (b) Music video clips
 - (c) Music video programs
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
2. A minimum of 50% of MuchMusic's broadcast week shall be devoted to the exhibition of programming featuring music video clips - Category 8 (b).
3. The licensee shall devote not more than 15% of the broadcast week to music-related programming from Categories 7(a) – Ongoing dramatic series and 7(e) - Animated television programs and films.
4. The licensee shall not distribute more than six hours of music-related Theatrical feature films aired on TV - Category 7(d) in each broadcast week.
5. Notwithstanding condition of licence No. 1, the licensee shall devote no more than 5% of the broadcast week to programming from Category 2(a) and 2(b) combined, except as individually authorized in writing by the Commission for extended coverage of special events.

6. The licensee shall devote to the distribution of Canadian programs not less than
 - (a) 60% of the broadcast week and
 - (b) 50% of the time from 6:00 p.m. to midnight (Eastern time) during each broadcast week.
7. Not less than 30% of the total number of music videos distributed by the licensee during each broadcast week shall be Canadian music videos.
8. The licensee shall schedule its Canadian music videos evenly throughout each broadcast week and in a reasonable manner throughout each broadcast day.
9. In each broadcast week,
 - (a) not less than 5% of the total number of music videos distributed by the licensee shall be French-language music videos, or
 - (b) the licensee shall broadcast each weekday, a minimum of one half-hour video-oriented program, which will feature between three and five French-language music videos or performances per program.
10. 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 allocate not less than 7% of the gross revenues derived from the operation of this service during the previous broadcast year to VideoFACT for the development and production of Canadian music videos.
 - (b) 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 33%, including 7% to VideoFACT, of the gross revenues derived from the operation of this service during the previous broadcast year;
 - (c) 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;

- (d) 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.
- (e) Notwithstanding paragraphs (c) and (d) 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.
11. (a) Subject to subsection (b), the licensee shall not distribute more than 12 minutes of advertising material per clock hour.
- (b) The licensee shall not distribute any paid advertising material other than paid national advertising.
- (c) 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.
12. The licensee shall charge each exhibitor of this service a maximum wholesale rate of \$0.09 per subscriber per month where the service is distributed as part of the basic service.
13. The licensee shall adhere to the guidelines on the depiction of violence in television programming set out in the Canadian Association of Broadcasters' (CAB) *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 Canadian Broadcast Standards Council (CBSC).
14. The licensee shall adhere to the guidelines on gender portrayal set out in the CAB's *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 CBSC.

15. 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.
16. The licensee shall provide closed captioning for 90% of all non-music programming, including presentations by program hosts, aired during the broadcast day in each of the first five years of the licence term.
17. Beginning on 1 September 2011, the licensee shall provide closed captioning for 90% of all programming aired during the broadcast day.

Definitions

“broadcast day” means a 24-hour period beginning each day at 6:00 a.m., or any other period approved by the Commission.

“broadcast week” means seven consecutive days beginning on Friday.

“broadcast month”, “broadcast year” and “clock hour” shall have the same meanings as those set out in the *Television Broadcasting Regulations, 1987*, except that “broadcast month” and “broadcast year” shall be calculated based on the definition of “broadcast day” provided above.

“paid national advertising” means advertising that is purchased at a national rate and receives national distribution on the service.

“music videos” will be known as “music video clips” and “Canadian music video clip” shall have the same meaning set out in section V of Appendix I of Public Notice CRTC 2000-42, entitled *Certification for Canadian programs - A revised approach*, as amended from time to time.

“music-related” shall be defined as about music or the music or recording industries, or about or featuring musical artists, concerts and musical performances, compositions or events.