



Broadcasting Decision CRTC 2006-15

Ottawa, 26 January 2006

CTV Television Inc.
Across Canada

Application 2005-0560-5
Broadcasting Public Notice CRTC 2005-66
13 July 2005

The Comedy Network – Licence amendments

*The Commission **approves** the application to amend the broadcasting licence for The Comedy Network by adding to the list of program categories that may be broadcast by the service. The Commission also **approves** a request for licence amendments that will allow the licensee to avail itself of the incentive program for English-language Canadian television drama set out in Incentives for English-language Canadian television drama, Broadcasting Public Notice CRTC 2004-93, 29 November 2004.*

The application

1. The Commission received an application by CTV Television Inc. (CTV) to amend the broadcasting licence for the national, English-language specialty programming undertaking known as The Comedy Network (Comedy), in order to add categories 7(c) Specials, mini-series, or made-for-TV feature films, and 7(d) Theatrical feature films aired on TV, to the list of categories from which the licensee may draw programming.
2. The licensee also requested the addition of conditions to Comedy's licence that would allow the licensee to avail itself of the incentive program for English-language Canadian television drama set out in *Incentives for English-language Canadian television drama*, Broadcasting Public Notice CRTC 2004-93, 29 November 2004 (Public Notice 2004-93).

Addition of program categories

3. CTV proposed to add categories 7(c) Specials, mini-series, or made-for-TV feature films, and 7(d) Theatrical feature films aired on TV to the list of categories from which Comedy may draw its programming. CTV indicated that programming from these categories would not represent more than 10% of all programming broadcast weekly on Comedy.

4. The licensee's proposal to add categories 7(c) and 7(d) to the list of categories from which it may draw programming would entail an amendment to the condition of Comedy's licence pertaining to the nature of service. The existing condition of licence is as follows:
 - 1.(a) The licensee shall provide a national English-language specialty television service devoted to comedy programs. The programs broadcast on the service will reflect comedy in its various forms and formats.
 - (b) The programming must be drawn 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:
 - 7 (b) Ongoing comedy series (sitcoms)
 - (e) Animated television programs and films
 - (f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy
 - (g) Other drama
 - 9 Variety
 - 10 Game shows
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
 - (c) All programming drawn from category 7(e) must be targeted strictly to adults.
 - (d) Programming drawn from category 7(e) will be limited to 10% of the licensee's broadcast day, and to no more than one hour during the period from 7:00 p.m. to 11:00 p.m.
5. In support of its proposal, CTV indicated that the addition of categories 7(c) and 7(d) would enable Comedy to enhance its schedule with Canadian and non-Canadian specials, mini-series, movies of the week and feature films. CTV argued that the addition of those two categories would further enhance Comedy's ability to serve its current audience, and would be consistent with the Commission's goal of putting more Canadian drama on the air, and helping to build a Canadian star system.
6. CTV added that by limiting to 10% the amount of specials and films in its schedule, and by ensuring that all such material is comic or comedy-related in nature, Comedy will not become competitive with other licensees that have these categories of drama programming as their primary focus.

Interventions

7. Numerous interventions were submitted in support of the addition of 7(c) and 7(d) to the list of categories from which Comedy's programming may be drawn, and one was submitted in opposition to it. Supporting interventions in general stated that Comedy had played a strong role in supporting Canadian comedy and that, with the addition of the new categories, it would continue to provide a voice for Canadian talent.
8. Global Television Network Inc.¹ (Global) submitted an intervention that opposed the addition of the proposed program categories on the basis that Comedy's original programming mandate was substantially expanded by the Commission's approval of requests to add categories 7(e) Animated television programs and films², and 7(g) Other drama and 10 Game shows³ to the list of categories from which Comedy may draw its programming. Global further submitted that CTV had offered no assurance that any programming to be drawn from the categories requested in the current application would be Canadian.
9. In Global's view, by seeking to further increase the variety of its programming, Comedy would be effectively broadening its mandate, and therefore not adding to diversity in the broadcasting system. The intervener further noted that CTV had not specified whether the 10% limit on these categories would be a combined total, or if 10% of each broadcast week would be devoted to each of the new categories.

Licensee's reply

10. In reply to Global's intervention, CTV indicated that it would accept a condition of licence that programming drawn from categories 7(c) and 7(d) combined would represent not more than 10% of all programming broadcast during the broadcast week.
11. In regard to Global's concerns for the broadening of Comedy's mandate, CTV noted that 10% of a broadcast week would represent a total of 12.6 hours. In CTV's view, this amount is small enough to ensure that Comedy would not become competitive with other licensees. Furthermore, CTV stated that all programming broadcast by Comedy would have comedy as "the primary or defining characteristic". CTV argued that the existence of a "comedic element" in an otherwise dramatic program would not be sufficient to consider such a program as comedy.
12. With respect to Global's concerns that CTV had not made a commitment that any of the additional programming would be Canadian, CTV noted that Comedy would still be obliged, by condition of licence, to ensure that not less than 60% of each broadcast day, and not less than 65% of the evening broadcast period is devoted to Canadian programming.

¹ On 1 September 2005, Global Television Network Inc. amalgamated with other CanWest subsidiaries to continue under the name CanWest MediaWorks Inc.

² See *Addition of animated programming*, Decision CRTC 2001-690, 9 November 2001

³ See *The Comedy Network – Licence renewal*, Broadcasting Decision CRTC 2004-6, 21 January 2004

Commission's analysis and determination

13. The Commission notes that the proposed addition of categories 7(c) and 7(d) to the list of categories from which Comedy may draw its programming raises fewer concerns than for other specialty services, since drama is already integral to Comedy's nature of service. It would not be unreasonable for a viewer to expect to see a comedic film on Comedy, and programs from categories 7(c) and 7(d) would be consistent with Comedy's nature of service.
14. At the same time, while both CTV and supporting interveners have argued that approval of this application would result in an increase of the amount of Canadian programming to be broadcast, the Commission notes that the licensee has offered no assurance that any of the proposed programming from categories 7(c) and 7(d) would be Canadian.
15. 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), *Incentives for English-language Canadian television drama*, Broadcasting Public Notice CRTC 2004-93, and in *Incentives for original French-language Canadian television drama*, Broadcasting Public Notice CRTC 2005-8, 27 January 2005, the Commission set out its goal of improving the state of drama programming in Canada.
16. Furthermore, the Commission notes that, in Public Notice 2004-2, it announced that various specialty services which had been granted authority to expand their nature of service conditions with the addition of a limited amount of drama programming, were required to ensure that all such programming would be Canadian.
17. The Commission is of the view that, in the absence of any requirement to broadcast Canadian drama, approval of the present application may only lead to increased competition for the acquisition of broadcast rights to foreign drama programming, much of which is already available in the broadcasting system.
18. Given the foregoing, and provided that all such programming is Canadian, the Commission is of the view that approval of CTV's request to add categories 7(c) and 7(d) to the list of categories from which Comedy may draw its programming would allow Comedy to play a greater role in the creation and broadcast of Canadian drama, and would not have a negative impact on competition for the acquisition of broadcast rights to foreign drama programming.
19. Accordingly, the Commission **approves** the application by CTV Television Inc. to amend the broadcasting licence for the national, English-language specialty programming undertaking known as The Comedy Network, in order to add categories 7(c) and 7(d) to the list of categories from which the licensee may draw its programming. The revised **condition of licence** describing Comedy's nature of service is as follows:

1. (a) The licensee shall provide a national, English-language specialty television service devoted to comedy programs. The programs broadcast on the service will reflect comedy in its various forms and formats.
- (b) The programming must be drawn 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:
 - 7 (b) Ongoing comedy series (sitcoms)
 - (c) Specials, mini-series, or made-for-TV feature films
 - (d) Theatrical feature films aired on TV
 - (e) Animated television programs and films
 - (f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy
 - (g) Other drama
 - 9 Variety
 - 10 Game shows
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
- (c) All programming drawn from category 7(e) must be targeted strictly to adults.
- (d) Programming drawn from category 7(e) will be limited to 10% of the licensee's broadcast day, and to no more than one hour during the period from 7:00 p.m. to 11:00 p.m.
- (e) Programming drawn from categories 7(c) and 7(d) combined will be limited to 10% of all programming broadcast during each broadcast week.
- (f) All programs drawn from categories 7(c) and 7(d) shall be Canadian programs, with comedy as their primary or defining characteristic.

Drama incentive program

20. In Public Notice 2004-93, the Commission announced an incentive program designed to increase the production and the broadcast of, the viewing to, and the expenditures on, high quality, original, Canadian drama programming. The Commission stated that a licensee that meets the criteria of the drama incentive program would be permitted to broadcast additional minutes of advertising, beyond the limits set out in applicable regulations or conditions of licence. The Commission specified that such a licensee must apply for a condition of licence in order to avail itself of the incentive program.
21. Intervenors expressing opinions with respect to the addition of categories 7(c) and 7(d) discussed above indicated that they did not oppose this portion of CTV's application.

Commission's determination

22. The Commission **approves** the request to add the following **condition of licence**:

In addition to the 12 minutes of advertising material during any clock hour in a broadcast day permitted by condition of licence, the licensee may broadcast such additional minutes of advertising material calculated in accordance with *Incentives for English-language Canadian television drama*, Broadcasting Public Notice CRTC 2004-93, 29 November 2004, as may be amended from time to time.

23. In addition, the Commission also **approves** the request to replace the preamble to the condition of licence setting out the requirements for Canadian programming expenditures with the following:

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, in *Additional Clarification Regarding the Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-174, 10 December 1993 and in *Incentives for English-language Canadian television drama*, Broadcasting Public Notice CRTC 2004-93, 29 November 2004, as may be amended from time to time:

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>