



## Broadcasting Decision CRTC 2004-8

Ottawa, 21 January 2004

**CTV Television Inc.**  
Across Canada

*Application 2002-0895-1  
Public Hearing in the National Capital Region  
26 May 2003*

### **CTV Newsnet – Licence renewal**

*In this decision, the Commission **renews** the broadcasting licence for the specialty television service known as CTV Newsnet, 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 CTV Television Inc. (CTV) for the renewal of the broadcasting licence for the national, English-language specialty television service known as CTV Newsnet.
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 540 interventions that specifically supported CTV Newsnet's licence renewal application. In addition, 23 interveners opposed the licensee's request to increase its maximum wholesale rate and one expressed concern regarding the audio description provided by the service. The concerns raised by these interveners are discussed in this decision.
4. Other interveners raised general concerns related to all of 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 CTV Newsnet, from 1 March 2004 to 31 August 2010.<sup>1</sup> The licence will be subject to the conditions specified therein and to the conditions set out in the appendix to this decision.

### **Wholesale rate**

6. As part of its licence renewal application, CTV requested an amendment to its conditions of licence in order to increase the maximum wholesale rate it charges each exhibitor of the service by \$0.11, from \$0.085 per subscriber per month to \$0.195 per subscriber per month, when the service is carried as part of the basic service.
7. The licensee contended that CTV Newsnet could not achieve profitability unless it was granted an increase in its wholesale rate. It claimed that viewers' ever increasing demand to receive immediate coverage of news events has resulted in a fundamental change in the business model for headline news services. In order to meet viewers' expectations, the licensee implemented improvements to CTV Newsnet's service during its first licence term, including increasing staffing across the country, adding technical enhancements and providing more timely news coverage. Consequently, CTV Newsnet incurred significantly higher costs than anticipated in its original business plan, resulting in a \$16 million loss over the licence term.
8. The licensee submitted that CTV Newsnet's advertising revenues and subscriber levels have reached a plateau and would grow only minimally in the new licence term. In the licensee's view, the only means for CTV Newsnet to generate additional revenues would be through an increase in its subscriber fees. The licensee claimed that merely maintaining the various improvements that it had initiated during the current licence term would cost \$21 million over the new licence term and, if it were not granted a rate increase, it would be forced to abandon these initiatives in order to achieve a business plan that would be "break-even, at best."
9. The licensee expected that the proposed increase in CTV Newsnet's wholesale rate would generate incremental subscriber revenues totalling \$52.3 million over the new licence term. In response to questioning at the hearing, the licensee stated that less than \$10 million of these additional revenues would be allocated to CTV Newsnet's profit before interest and tax (PBIT). It made a commitment that \$42.7 million would be invested in news gathering, program production and associated expenses.
10. In response to a request by the Commission at the hearing, the licensee submitted documentation dated 30 May 2003 describing the specific initiatives it would implement over the new licence term if its proposed rate increase were approved. The licensee planned to allocate \$14.6 million to implement new improvements to CTV Newsnet's service, including introducing a live-anchor format that allows more rapid updates of the content of the 15-minute news wheel. It would also spend \$21 million to maintain

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<sup>1</sup> In *Administrative renewals*, Broadcasting Decision CRTC 2003-290, 21 July 2003, the Commission granted a six-month administrative renewal for CTV Newsnet, from 1 September 2003 to 29 February 2004.

programming improvements initiated during the current licence term. Of the remaining revenues generated by the proposed rate increase, \$2.2 million would be allocated to associated sales and promotion, \$0.6 million to additional general and administrative expenses, \$4.3 million to additional depreciation expenses, and \$9.6 million to the licensee's PBIT.

### **Interventions**

11. Twenty-three parties filed interventions opposing the proposed rate increase.
12. The Canadian Cable Television Association (CCTA) and Star Choice Television Network Incorporated (Star Choice), the licensee of a national direct-to-home satellite distribution undertaking, alleged that CTV had underestimated its ability to generate additional revenues from existing sources, such as subscriber fees and advertising revenues. Both the CCTA and Star Choice contended that CTV Newsnet has adequate financial resources to provide a level of service that would be consistent with its mandate without an increase in its wholesale rate.
13. 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 CTV Newsnet'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 CTV Newsnet from their line-up.
14. 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**

15. In response, the licensee maintained that its projections of minimal growth in subscriber and advertising revenues over the new licence term are realistic. The licensee argued that the interveners did not substantiate their claims that a rate increase would not deliver good value to subscribers or that it would cause them to cancel their service. According to the licensee, its surveys indicated strong support for CTV Newsnet. The licensee further maintained that the proposed wholesale rate increase would strengthen CTV Newsnet, thus enabling it to fulfil its mandate as a national headline news service.

### **The Commission's analysis and determination**

16. 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.
17. 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. The Commission also recognizes the financial difficulties that the licensee has experienced during CTV Newsnet's first licence term. The Commission considers that it is important that CTV Newsnet be able to improve the quality of its programming in order to fulfil its mandate as a national headline news service. The Commission is, therefore, prepared to approve the portion of the proposed rate increase that will fund incremental expenditures to implement new improvements to CTV Newsnet's programming and a portion of the proposed rate increase that will fund incremental expenditures to maintain the programming enhancements initiated during the first licence term. The Commission, however, is not prepared to grant the portion of the proposed rate increase that would be allocated to funding the full cost of programming enhancements undertaken in the first licence term, or for costs that are not directly related to improving the service's programming, or to contribute directly to the licensee's profitability. Based on its analysis of the programming initiatives described in the documentation submitted by the licensee, the Commission finds that a rate increase of \$0.06 per subscriber per month is justified.
18. The Commission, therefore, **approves in part** the licensee's request to amend its conditions of the licence in order to increase the service's monthly wholesale rate. Accordingly, by **condition of licence**, commencing 20 April 2004, the Commission authorizes the licensee to charge BDUs distributing CTV Newsnet a maximum of \$0.145 per subscriber per month when it is distributed as part of the basic service. The condition of licence is set out in the appendix to this decision.

19. The Commission expects that the licensee will spend the incremental revenues resulting from this increase in its wholesale rate on new programming improvements and on maintaining programming enhancements that contribute to CTV Newsnet's mandate as a national headline news service. Beginning in the broadcast year ending 31 August 2005, the licensee must file with its annual return a separate report demonstrating that CTV Newsnet has fulfilled this expectation, including the programming initiatives that were implemented and their cost.

### **Cultural diversity**

20. 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 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.
21. CTV has filed a corporate cultural diversity plan with the Commission setting out specific commitments relating to corporate accountability, reflection of diversity in programming, and community involvement as they relate to the presence and portrayal of cultural diversity. The licensee indicated that many of the plan's initiatives have been directly aimed at CTV's newsgathering operations, including CTV Newsnet. The "Rainbow Rolodex" of authoritative spokespeople from a variety of backgrounds is one of the initiatives used by CTV Newsnet to ensure that its news coverage reflects Canada's diversity. CTV Newsnet also maintains a close partnership with the Aboriginal Peoples Television Network, particularly in the area of news gathering.
22. The Commission expects the licensee to continue to contribute to cultural diversity and to implement the commitments set out in its corporate cultural diversity plan, including those elements directly aimed at news gathering and CTV Newsnet.
23. The Commission notes that CTV's corporate cultural diversity plan currently encompasses persons with disabilities. As discussed in Public Notice 2004-2, the Commission expects the licensee to continue 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, beginning with the report to be filed in December 2004.

### **Employment equity and on-air presence**

24. 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.

25. 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.
26. In response to questions by the Commission on this issue, the licensee reported that CTV Newsnet currently has five on-air anchors of which three are members of visible minorities. The licensee also stated that it has undertaken initiatives during the current licence term to recruit and improve the on-air presence of Aboriginal persons.
27. The Commission encourages the licensee to continue with its initiatives to recruit Aboriginal persons during the new licence term. The Commission further expects CTV 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 CTV Newsnet.

### **Service to persons who are deaf or hard of hearing**

28. 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.
29. During the current licence term, CTV Newsnet was expected to close caption all of the programming offered on the service. The licensee stated that, at times, technical difficulties and unexpected circumstances impeded its ability to achieve this level of captioning. It stated that its closed captioning efforts are now more successful.
30. As part of the licence renewal process, the licensee made a commitment to close caption all of CTV Newsnet's programming during the new licence term. However, the licensee submitted that 90% of the broadcast day would be a more appropriate level for the purpose of a condition of licence. It explained that a 90% requirement would allow for a reasonable margin of error and ensure that a technical error does not cause CTV Newsnet to be in non-compliance with a condition of licence.
31. The Commission recognizes that requiring 100% captioning at all times by condition of licence may not be reasonable. A 90% obligation provides 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.

32. Consistent with its general approach for English-language services, the Commission is imposing a **condition of licence** requiring the licensee to close caption at least 90% of all programming aired during the broadcast day, beginning not later than 1 September 2004. The condition of licence is set out in the appendix to this decision.
33. At the same time, the Commission expects the licensee to abide by its commitment to close caption all the programming aired on CTV Newsnet during the new licence term. The Commission further 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**

34. The Commission is committed to improving the accessibility of television programming for persons with visual impairments through the provision of audio description<sup>2</sup> and video description (also known as described video).<sup>3</sup>
35. The licensee stated that audio description is an inherent aspect of the programming offered by a news service because a significant part of news programming consists of play-by-play description, analysis and discussion. In training its on-air staff, the licensee, nevertheless, emphasizes the importance of providing audio description when text and graphics are displayed on screen. CTV stated that all advisories broadcast on CTV Newsnet as well as most still images, such as phone numbers, stock figures or weather information posted on the screen, are presented in both a visual format and in a voice-over.
36. During the current licence term, the Commission received a number of complaints from viewers regarding the quality of audio description offered on CTV Newsnet, particularly during the presentation of weather reports. In addition, as part of this licence renewal process, the Commission received an intervention from Mr. J. Clark of Toronto claiming that CTV Newsnet does not provide enough audio description and that what it does provide is of inferior quality.
37. The licensee did not specifically reply to this intervention.

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<sup>2</sup> 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.

<sup>3</sup> 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.

38. The Commission considers that news services have a particular responsibility to ensure that their programming is as accessible as possible. Accordingly, the Commission expects that, during the new licence term, the licensee will provide audio description, wherever appropriate, and ensure that the audio description offered by CTV Newsnet is of good quality. The Commission further expects the licensee to take the necessary steps to ensure that its customer service responds to the needs of viewers who have visual impairments.

### **Programming delivered across time zones**

39. 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**

40. 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 2004-8

### Conditions of licence

1. (a) The licensee shall provide a national English-language television specialty service, and 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
  - 3 Reporting and actualities
  - 13 Public service announcements
  - 14 Infomercials, promotional and corporate videos
- (b) Subject to 1. (d), the licensee shall maintain a “headline news” format, as described in its original application for a broadcasting licence, presented in a continuously-updated fifteen minute wheel.
- (c) Subject to 1. (d), in any broadcast week, no fifteen-minute period shall elapse without the broadcast of a headline news segment of a minimum of two minutes duration (excluding commercials). The headline news segment must contain a comprehensive news bulletin that includes such programming elements as news, weather, sports and business reports.
- (d) The licensee shall be deemed to be in compliance with this condition provided there are no more than 25 occurrences, during any broadcast week, in which more than 15 minutes elapse without the broadcast of a headline news segment, as described in 1. (c). For the purposes of assessing compliance with this requirement, each 15-minute period that elapses without the broadcast of such a headline news segment shall count as a separate occurrence.
- (e) During any occurrence in which more than 15 minutes elapse without the broadcast of a headline news segment, the licensee must provide an onscreen display of the headline news items.
- (f) For the purpose of this condition, a “broadcast week” shall be defined as the period of seven consecutive broadcast days, beginning on Sunday.
2. The licensee shall devote the entire broadcast year to the distribution of Canadian programs.
3. (a) The licensee shall not distribute more than twelve (12) minutes of advertising material during each clock hour.
- (b) The licensee shall not distribute any paid advertising material other than paid national advertising.

- (c) In addition to the twelve minutes of advertising material referred to in subsection (a), the licensee may broadcast partisan political advertising during an election period.
4. Commencing 20 April 2004, the licensee shall charge each exhibitor of the service a maximum wholesale rate of \$0.145 per subscriber per month, where the service is carried as part of the basic service.
  5. 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 2004.
  6. 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).
  7. 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.
  8. 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 of licence, the terms "broadcast day", "broadcast year", "evening broadcast period" and "clock hour" shall have the same meaning as those set out in the *Television Broadcasting Regulations, 1987*; "broadcast week" shall have the same meaning as that set out in the *Radio Regulations, 1986*; "paid national advertising" shall mean advertising material as defined in the *Specialty Services Regulations, 1990* and that is purchased at a national rate and receives national distribution on the service.