



Broadcasting Decision CRTC 2004-395

Ottawa, 31 August 2004

CHUM Limited

Victoria and Vancouver, British Columbia

Application 2003-1579-8

Public Hearing in the National Capital Region

7 June 2004

CIVI-TV Victoria and its transmitter – Licence renewal

*The Commission **renews** the broadcasting licence issued to CHUM Limited (CHUM) for the television programming undertaking CIVI-TV Victoria and its transmitter CIVI-TV-2 Vancouver, from 1 September 2004 to 31 August 2009. This period will enable the Commission to consider the next licence renewal for this undertaking at the same time as it considers the licence renewal for other television programming undertakings that fall under CHUM's ownership.*

The application

1. The Commission received an application by CHUM Limited (CHUM) for the renewal of the broadcasting licence for the television programming undertaking CIVI-TV Victoria and its transmitter CIVI-TV-2 Vancouver.
2. In *New television station on Vancouver Island*, Decision CRTC 2000-219, 6 July 2000 (Decision 2000-219), the Commission approved CHUM's application for a licence to carry on a new television programming undertaking at Victoria. The Commission's approval was on the basis of its determination that the proposed station would bring a number of benefits to viewers, both at the local and at the national level. The strengths of the application included CHUM's clear and significant commitments to local programming and to independent production, as well as CHUM's history of reflecting Canada's cultural diversity, both on and off the air.
3. In its original licence application, CHUM had proposed that CIVI-TV's programming would emphasize local news and information, and the station "would concentrate its commitments related to under-represented categories of Canadian programming on dramatic series, music/variety programs and documentaries." CHUM had also proposed to take advantage of potential synergies between CIVI-TV and CHUM's specialty channels as a means to make British Columbia productions available across all of Canada.

Local reflection

4. CHUM's commitment for the original licence term was to broadcast a minimum of 26 hours of original local programming that would be reflective of the community in each broadcast week of its original licence term. Local programming was to include a minimum of 19.5 hours of local news, and at least 6.5 hours of other types of local programming.
5. CHUM's overall commitment for the new term of licence remains essentially unchanged, namely that it will continue to provide a minimum of 26 hours of original programming reflective of the community. In its renewal application, CHUM stated that, while the bulk of this programming would continue to consist of local news, it did not propose to commit itself to a minimum number of hours per week of such programming. It did, however, renew its commitment to offer a weekly minimum of 6.5 hours of local programming other than news. The Commission expects the licensee to fulfil these commitments.
6. The Commission further expects the licensee to continue to broadcast a minimum of two hours of original local programming in peak time during each broadcast week of the new licence term, and to broadcast a weekly half-hour local program in peak time that will focus on aboriginal issues in British Columbia.

Priority programming

7. The licensee has committed to broadcast, in each broadcast year of the new licence term, between 7:00 p.m. and 11:00 p.m., a minimum average of eight hours in each broadcast week of Canadian programs in the priority program categories. The Commission has included a condition of licence in the appendix to this decision requiring CHUM to fulfil this commitment.

Independent production from within British Columbia

8. In Decision 2000-219, the Commission expected the licensee to fulfil its special commitment to spend \$12 million on programming produced by independent producers in British Columbia during the first seven years of operation of the new Victoria station. Over its original four-year licence term, CIVI-TV has discharged a large portion of this commitment by spending \$7 million on such independent production. It has further benefited documentaries, series and specials from almost every region of Canada.
9. During the first three years of the new licence term, the Commission expects the licensee to spend on independent production within British Columbia the remaining \$5 million due under its original special commitment. To ensure that independent producers based on Vancouver Island benefit from this commitment, the Commission further expects the licensee to ensure that at least half of the remaining total is spent on programs produced by independent producers based on Vancouver Island.

Interventions

10. The Commission received 33 interventions to this application, including 29 letters in support of the licence renewal of CIVI-TV. Many of these were from individual residents of Vancouver Island praising CHUM's active involvement in their community. Other letters in support were filed by production companies, including Across Borders Media and Three Waves Studio, which specifically noted the investments that CIVI-TV has made in independent programming production in the province. Arrow Productions Inc. and Inter-Cultural Association of Greater Victoria applauded CIVI-TV's performance and commitments with respect to the portrayal of multicultural and Aboriginal diversity.
11. Interventions were filed by four other representatives of the independent production sector, including the Vancouver Island Screen Actors Committee (VISAC), the CineVic Society of Independent Filmmakers (CINEVIC), the Victoria Film Producers Association (ViFPA), and the Canadian Film and Television Production Association (CFTPA). VISAC, an organization that represents actors based on Vancouver Island, wrote to express its concerns over CIVI-TV's drama production efforts, which, in its view, have failed to create significant professional opportunities for VISAC members. CINEVIC agreed, arguing that CIVI-TV has not met its commitment to make use of Vancouver-based production companies for the production of local programming.
12. ViFPA, which represents the interests of more than 30 companies engaged in the production of independent film and television programs, sought assurance that CIVI-TV would not step away from its commitment to the community with respect to the provision of employment and training opportunities in television production. The intervener indicated that it wished to see CHUM increase its participation in productions based on Vancouver Island, and in the development of documentaries, long-form drama and drama series. ViFPA further recommended that CIVI-TV create a new independent production fund in the next licence term that would be over and above the \$5 million in expenditures on independent production that remains due under the licensee's original special commitment discussed earlier.
13. The CFTPA commented on, among other things, its desire to have the Commission oblige the licensee to maintain certain minimum levels of priority programming, including that obtained from non-affiliated independent producers, and to file annual reports on CHUM's acquisitions of "original" productions that would be available for examination by the public. The CFTPA also expressed its concern with CIVI-TV's reporting of expenditures for independent Canadian programs, and requested that the Commission publish detailed reports relating to the funding of independent production in British Columbia.

CHUM's reply to interventions

14. CHUM responded to these interventions by reiterating its commitment to extend continuing and strong support to local programming. With respect to the request by ViFPA that CHUM create a new, independent production fund, CHUM reminded this intervener that no other over-the-air television station in British Columbia has either committed or been required to commit to ongoing spending as part of its renewal application.
15. CHUM also responded to the intervention by the CFTP by noting that many of the proposals made by the association were initiatives to which CHUM was already committed, or were proposals that went above and beyond the requirements set out in *Building on success - A policy framework for Canadian television*, Public Notice CRTC 1999-97, 11 June 1999. The applicant also provided the Commission with a breakdown of all projects that have been supported by its expenditures of \$7 million on independent program production during the original licence term, confirming that the amounts expended on independent Vancouver Island productions have been consistent with CHUM's original commitments and with the Commission's expectations expressed in Decision 2000-219.
16. The Commission is satisfied with CHUM's response to interventions.

The Commission's analysis and determination

Reflection of Canada's diversity

17. As part of its application, CIVI-TV stated that:

...as a CHUM station, [it] is committed to reflecting the culturally diverse nature of its community. Going forward, the programming on CIVI-TV will continue to reflect the distinct cultural and racial makeup of Vancouver Island and Canada as a whole.
18. With respect to Aboriginal programming, CHUM committed to build on the success achieved during its original licence term through the broadcast of such programs as *The New Canoe* and *Ravens & Eagles*.
19. All broadcasting licensees have a responsibility to contribute to the reflection and portrayal of Canada's cultural diversity in furtherance of the policy objectives contained in section 3(1)(d) of the *Broadcasting Act* (the Act). Specifically, broadcasters share responsibility for assisting in the development of a broadcasting system that accurately reflects Canada's ethno-cultural minorities and Aboriginal peoples. Broadcasters must therefore ensure that the portrayal of such groups, through their presence and participation on-screen, is accurate, fair and non-stereotypical.

20. The Commission commends CIVI-TV's efforts in the portrayal of cultural diversity and encourages the licensee to continue with the broadcasting of culturally diverse and Aboriginal programming. The Commission expects CIVI-TV to fulfil its commitment to broadcast a weekly half-hour local program in peak time that will focus on Aboriginal issues in British Columbia, with at least thirteen new episodes annually, throughout the licence term.
21. The Commission considers that the improved reflection and portrayal of persons with disabilities is also an important objective. The Commission notes that the Canadian Association of Broadcasters (CAB) is developing a plan to examine issues surrounding the presence, portrayal and participation of persons with disabilities in television programming. The Commission considers that initiatives designed to make programming more reflective and inclusive of Canada's ethno-cultural diversity can, in many cases, be extended or adapted to also ensure fair, balanced and inclusive reflection and representation of persons with disabilities. Accordingly, the Commission expects the licensee to include persons with disabilities in its corporate planning for cultural diversity.

Employment equity and on-air presence

22. Because this licensee is subject to the *Employment Equity Act* and files reports with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.
23. With respect to on-air presence, the Commission expects the licensee to ensure that its programming is reflective of Canadian society and that members of the four designated groups (women, Aboriginal persons, persons with disabilities and members of visible minorities) are presented fairly and accurately.

Service to persons who are blind or whose vision is impaired

24. Section 3(1)(p) of the Act states that, as part of the broadcasting policy for Canada, "programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose." Accordingly, the Commission expects all broadcasters to work toward improving the accessibility of their programming for persons who are blind or whose vision is impaired.
25. Greater programming accessibility can be achieved through the provision of audio description¹ and/or of video description². All broadcasters can, and should, provide audio description. CHUM provides, to all its television stations, guidelines governing the use

¹ Audio description consists of basic voice-over recitations or descriptions of the text or graphic information that is displayed on the screen. Although a measure of sensitivity and creativity on the part of a broadcaster is necessary to ensure the quality and effectiveness of audio description, no special equipment is required.

² Video description, or described video, takes the form of a narrative description of a program's key visual elements which permits the audience to create a mental image of what is on the screen. It is generally provided using the secondary audio program (SAP) channel.

of voice-overs to accompany on-screen text information, particularly in the case of news. Existing and new producers and general managers are regularly reminded of CHUM's commitment to providing access to persons who are visually challenged.

26. Regarding video description, it is a **condition of licence** that the licensee broadcast, between 7:00 p.m. and 11:00 p.m., an average of three hours in each broadcast week of described video programming on CIVI-TV during each of the first two years of the new licence term. It is also a **condition of licence** that the licensee broadcast, between 7:00 p.m. and 11:00 p.m., an average of four hours per week of described video programming during the remainder of the new licence term. As part of these conditions, all of the described video programming must be Canadian, and a minimum of 50% of the required hours must be original broadcasts. The Commission further expects at least 75% of the described video programming to be priority programming. The licensee may count toward fulfilment of these conditions a maximum of one hour per week of described video programming that is directed to children and is broadcast at a viewing time appropriate for children.
27. The Commission notes the growing amount of described video programming that is available for acquisition. It expects CHUM to acquire and broadcast the described versions of programs wherever possible.

Service to persons who are deaf or whose hearing is impaired

28. Consistent with its policy on the provision of closed captions, the Commission has imposed a **condition of licence** requiring the licensee to provide closed captioning for all news programs and not less than 90% of all programs aired during the broadcast day.

Conclusion

29. In Decision 2000-219, the Commission indicated that an initial licence term of four years was appropriate for the proposed Victoria television station in light of changes occurring in the Vancouver/Victoria television market at that time. It also noted that the four-year term would allow the Commission to examine, at an earlier date, whether or not the licensee's commitments were "commensurate with the privilege granted" to operate a conventional television station in the Vancouver/Victoria market. The Commission has concluded that the commitments that CHUM has made in its renewal application, including those with respect to local reflection, priority programming and spending on Canadian independently-produced programs, are commensurate with the privilege of operating a television station in this market.
30. Further, the Commission is generally satisfied that, during the current licence term, the licensee has adhered to the requirements of the *Television Broadcasting Regulations, 1987*, and has complied with its conditions of licence and the Commission's expectations, specifically those regarding local programming, Aboriginal programming, and funding towards independent production in British Columbia.

31. On the basis of its review of this licence renewal application and having considered the interveners' comments, the Commission **renews** the broadcasting licence for CIVI-TV Victoria and its transmitter CIVI-TV-2 Vancouver from 1 September 2004 to 31 August 2009. The licence will be subject to the conditions specified therein, as well as to those set out in the appendix to this decision.
32. The licence term approved herein will enable the Commission to consider the next licence renewal for this undertaking at the same time as it considers the licence renewal for other television programming undertakings that fall under CHUM's ownership.

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 2004-395

Conditions of licence

1. a) The licensee shall broadcast, at a minimum, in each broadcast year, an average of eight hours per week of Canadian programs in the priority program categories between 7:00 p.m. and 11:00 p.m.
 - b) For the purpose of fulfilling the above-noted condition, the licensee may claim the dramatic programming credit announced in *Definitions for new types of priority programs; revisions to the definitions of television content categories; definitions of Canadian dramatic programs that will qualify for time credits towards priority programming requirements*, Public Notice CRTC 1999-205, 23 December 1999, as it may be amended from time to time.

For the purpose of this condition of licence, the priority program categories shall be as specified in that public notice, namely: Canadian drama programs; Canadian music and dance and variety programs; Canadian long-form documentaries; Canadian regionally-produced programs in all categories other than News and information and Sports; Canadian entertainment magazine programs.

2. The licensee shall provide closed captioning for all news programs and not less than 90% of all programs aired during the broadcast day.
3. a) Beginning 1 September 2004, the licensee shall broadcast between 7:00 p.m. and 11:00 p.m. an average of three hours per week of described video programming.
 - b) Beginning 1 September 2006, and for the remainder of the licence term, the licensee shall broadcast between 7:00 p.m. and 11:00 p.m. an average of four hours per week of described video programming.

In fulfilling this condition, all of the described video programming must be Canadian, and a minimum of 50% of the required hours must be original broadcasts. Further, the licensee may count towards the fulfilment of this condition a maximum of one hour per week of described video programming that is directed to children and is broadcast at a viewing time that is appropriate for children.