



## Broadcasting Decision CRTC 2004-17

Ottawa, 21 January 2004

### **Learning and Skills Television of Alberta Limited Across Canada**

*Application 2002-0948-8  
Public Hearing in the National Capital Region  
26 May 2003*

### **Canadian Learning Television – Licence renewal**

*In this decision, the Commission **renews** the broadcasting licence for the specialty television service known as Canadian Learning Television, 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 Learning and Skills Television of Alberta Limited (LTA) for the renewal of the broadcasting licence for the national, English-language, specialty television service known as Canadian Learning Television (CLT).
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 94 interventions specifically supporting CLT's licence renewal application.
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 Canadian Learning Television, 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.
6. The licensee requested the renewal of the licence for CLT under the same terms and conditions as the existing licence, with the exception of a proposed increase in the maximum hourly amount of advertising material.

### **Expenditures on Canadian programming**

7. In each year of the current licence term, LTA has been required by condition of licence, to expend on Canadian programs a minimum of 36% of the previous year's total revenues with respect to CLT.
8. During the licence renewal process, LTA indicated that it does not believe that an increase in its Canadian programming expenditures (CPE) is warranted immediately. It stated, however, that an increase to 40% beginning in the fourth year of the new licence term would be acceptable.
9. The Commission notes that the service's historical average profit before interest and tax (PBIT) margin has been in the range of 36-40%. Taking this into account, and consistent with the approach described in Public Notice 2004-2, the Commission has determined that an increase of six percentage points is appropriate. Accordingly, the Commission is requiring the licensee, in each year of the licence term, to expend 42% of the previous year's gross revenues on Canadian programming, beginning 1 September 2004. A **condition of licence** to this effect is set out in the appendix to this decision.

### **Nature of service**

10. As part of this process, the Commission suggested an amendment to the licensee's current condition of licence describing its nature of service in order to more clearly define CLT's nature of service.
11. In response to the Commission, the licensee proposed the following:

The licensee shall provide a national, English-language specialty television service which provides formal and informal educational programming and learning opportunities that generally focus on adult education. Educational programs will come from a full spectrum of basic, credit-based, skills-related and life enhancing programs, many of which will be undertaken in co-operation with colleges, universities and training institutions.

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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 Canadian Learning Television, from 1 September 2003 to 29 February 2004

12. The licensee also proposed the addition of the phrase “clear learning objectives” to the condition of licence which specifies that no less than 55% of programs be drawn from category 5(a) Formal education and pre-school. The Commission is of the view that the minor changes proposed to the nature of service condition would add precision to the existing condition of licence. The Commission therefore adds the above wording to the condition of licence describing CLT’s nature of service. The amended text of this **condition of licence** is set out in the appendix to this decision.

### **Advertising content**

13. CLT is currently authorized to broadcast an hourly maximum of eight minutes of advertising material. As part of its licence renewal application, LTA proposed to increase CLT’s advertising content to a maximum of 12 minutes per hour. In support of its application, LTA stated that the increase would not affect the character of the programming on CLT. It argued that the increase would “...bring CLT into conformity with other national television specialty services which are allowed 12 minutes of commercial advertising per hour. The additional advertising revenues, while small, will help CLT meet all of our other commitments and conditions of licence.”
14. The Commission is satisfied that approval of the licensee’s request for additional advertising is consistent with the approach taken with other specialty services. It therefore **approves** LTA’s request to increase the advertising content on CLT from a maximum of eight minutes per hour to a maximum of 12 minutes per hour. A **condition of licence** to this effect is set out in the appendix to this decision.

### **Canadian independent production**

15. At the time of its original licence application, LTA made a commitment that 920 hours of programming on CLT over the licence term would be original programming acquired from Canadian independent producers.
16. As part of this renewal process, LTA stated that it would accept, as a condition of licence, that 25% of all Canadian programs other than news, sports and current affairs broadcast on CLT be acquired from Canadian independent producers.
17. In its intervention to this application, the Canadian Film and Television Production Association (CFTPA) characterized CLT as a positive contributor to the independent production sector. The CFTPA stated that CLT is:

...committed to regional partnerships with educational institutions and with the independent production community. It has commissioned or pre-licensed more than a thousand hours of documentary and educational programming from independent producers from all parts of Canada and has committed that Alberta producers will produce the largest portion (94%) of its regional production.

18. Based on this record, the CFTPA suggested that, for the new licence term, CLT should acquire at least 75% of its original Canadian programming from independent producers.
19. Based on the above, and consistent with the approach discussed in Public Notice 2004-2, the Commission considers that it is reasonable to expect LTA, for the duration of the new licence term, to ensure that a minimum of 75% of all original, first-run Canadian programming is acquired from non-related producers.

### **Regional reflection and production**

20. In its renewal application, LTA described a number of programs that demonstrate regional reflection in the programming on CLT.
21. The licensee also stated that reporters for the program *CareersTV* travel regularly across Canada to cover local career-related issues with national significance, and that each weekday, CLT broadcasts *HELP!tv*, a phone-in program which takes call from across Canada.
22. The Commission expects the licensee to continue to ensure that the programming aired by CLT reflects all of Canada's regions. The Commission also expects the licensee to provide opportunities for producers working outside the major production centres to supply programming for the service.

### **Duplication of programming on ACCESS TV**

23. Through common ownership, CLT is associated with ACCESS Alberta, the Alberta educational authority and licensee of ACCESS TV. In *Canadian Learning Television – Approved*, Decision CRTC 96-600, 4 September 1996, the Commission stated that it would expect the licensee to adhere to its commitment that no more than 20% of the programs broadcast on CLT would also be broadcast by ACCESS TV. As part of the current renewal process, LTA stated that it would be prepared to maintain the same commitment over the new licence term.
24. Consistent with the licensee's commitment, the Commission continues to expect that no more than 20% of the programs broadcast on CLT will also be broadcast by ACCESS TV.

### **Cultural diversity**

25. 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.

26. In *Licence renewal and additional advertising for ACCESS*, Broadcasting Decision CRTC 2003-175, 6 June 2003 (Decision 2003-175), the Commission expected LTA to develop and implement a comprehensive cultural diversity plan for its services, and to submit it to the Commission.
27. In August 2003, LTA submitted its corporate cultural diversity plan to 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 on both ACCESS TV and CLT.
28. The Commission expects the licensee to ensure that CLT adheres to the commitments made in LTA's corporate plan, and continues to contribute to cultural diversity. As discussed in Public Notice 2004-2, the Commission further expects the licensee 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**

29. 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.
30. 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.
31. The Commission further expects LTA to take steps during the new licence term to address gaps in the on-air presence of members of the four designated groups on CLT.

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

32. 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.

33. As part of its licence renewal process, LTA stated that, while CLT was a relatively new service with modest advertising revenues, it expected to be able to reach a level of captioning of 90% by the end of its seventh year of operation, in August 2006. Taking into account the number of years the service has been in operation and the revenues of CLT, the Commission notes that CLT will reach \$10 million in revenues in 2006 and therefore considers 2006 an appropriate deadline to reach 90% closed captioning.
34. Accordingly, the Commission has imposed a **condition of licence** requiring the licensee to close caption 90% of all programming aired during the broadcast day, beginning not later than 1 September 2006. The condition of licence is set out in the appendix to this decision.
35. The 90% obligation is based on the recognition that requiring 100% captioning at all times by condition of licence may not be reasonable. Thus, the obligation is designed to provide 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.
36. The Commission 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**

37. 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>
38. During this process, LTA stated that it is aware of the importance of verbal descriptions of visual elements and continues to address the needs of the visually impaired. However, LTA also indicated that it did not believe that it could guarantee a minimum amount of described programming at this time for CLT.

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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.

39. Nevertheless, the Commission expects that, during the new licence term, the licensee will:
- provide audio description wherever appropriate;
  - acquire and broadcast the described versions of a program wherever possible; and
  - 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**

40. 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 the program originates and where it is received.

#### **Compliance with industry codes**

41. 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 2004-17

### Conditions of licence

1. (a) The licensee shall provide a national English-language specialty television service which provides formal and informal educational programming and learning opportunities that generally focus on adult education. Educational programs will come from a full spectrum of basic, credit-based, skills-related and life-enhancing programs, many of which will be undertaken in cooperation with colleges, universities and training institutions.
- (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:
  - 2 (a) Analysis and interpretation
  - (b) Long-form documentary
  - 5 (a) Formal education and pre-school
  - (b) Informal education/Recreation and leisure
  - 12 Interstitials
  - 13 Public service announcements
  - 14 Infomercials, promotional and corporate videos
- (c) Not less than 55% of the programs during the broadcast day shall be drawn from Category 5(a), and shall have clear learning objectives.
2. In each broadcast year, the licensee shall devote to the exhibition of Canadian programs not less than 60% of the broadcast day, and not less than 50% of the evening broadcast period.
3. In accordance with the Commission's position on Canadian programming expenditures as set out in *New Flexibility With Regard to Canadian Program Expenditures by Canadian Television Stations*, Public Notice CRTC 1992-28, 8 April 1992, in *The Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-93, 22 June 1993 and in *Additional Clarification Regarding the Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-174, 10 December 1993:
  - (a) In the broadcast year ending 31 August 2004, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 36% of the gross revenues derived from the operation of this service during the previous broadcast year.



- (b) In the broadcast year beginning 1 September 2004 and in each subsequent broadcast year of the licence term, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 42% 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.
4. (a) Subject to subsection (b), the licensee shall not distribute more than twelve (12) minutes of advertising material during each clock hour.
- (b) Where a program occupies time in two or more consecutive clock hours, the licensee may exceed the maximum number of minutes of advertising material allowed in those clock hours if the average number of minutes of advertising material in the clock hours occupied by the program does not exceed the maximum number of minutes that would otherwise be allowed per clock hour.
  - (c) The licensee shall not distribute any paid advertising material other than paid national advertising.
5. The licensee shall charge each exhibitor of this service a maximum monthly wholesale rate of \$0.15 per subscriber, where the service is carried as part of the basic service.

6. 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 2006.
7. 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).
8. 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.
9. The licensee shall adhere to the guidelines on the depiction of violence in television programming set out in the CAB's *Voluntary code regarding violence in television programming*, as amended from time to time and approved by the Commission. The application of the foregoing condition of licence will be suspended as long as the licensee remains a member in good standing of the CBSC.

For the purpose of these conditions, the term "broadcast day", "broadcast month", "broadcast year", "clock hour" and "evening broadcast period" shall have the same meanings as those set out in the *Television Broadcasting Regulations, 1987*. The term "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.