



Broadcasting Decision CRTC 2004-19

Ottawa, 21 January 2004

CHUM Limited
Across Canada

Application 2002-0955-3
Public Hearing in the National Capital Region
26 May 2003

Space: The Imagination Station – Licence renewal

*In this decision, the Commission **renews** the broadcasting licence for the specialty television service known as Space: The Imagination Station, 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 CHUM Limited (CHUM) for the renewal of the broadcasting licence for the national, English-language, specialty television service known as Space: The Imagination Station (Space).
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 seven interventions specifically in support of Space'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 licence for Space: The Imagination Station, from 1 March 2004 to 31 August 2010.¹ The licence will be subject to the conditions specified therein and to the conditions set out in the appendix to this decision.

¹ In *Administrative renewals*, Broadcasting Decision CRTC 2003-290, 21 July 2003, the Commission granted a six-month administrative renewal of Space: The Imagination Station, from 1 September 2003 to 29 February 2004.

6. The licensee requested the renewal of the licence for Space under the same terms and conditions as the existing licence.

Expenditures on Canadian programming

7. In each year of the current licence term, CHUM has been required by condition of licence, to expend on Canadian programs a minimum of 40% of the previous year's total revenues with respect to Space.
8. During the licence renewal process, CHUM indicated that it does not believe that an increase in Canadian programming expenditures (CPE) is warranted. It stated that the 40% condition, applied in 1996, was based upon the Commission's consideration of what would be appropriate for the service as proposed and that "there is no reason to conclude (that) Space's current Canadian programming expenditure requirement is not appropriate going forward".
9. The Commission notes that the service's historical average profit before interest and tax (PBIT) margin has been less than 20%. Taking this into account, and consistent with the approach described in Public Notice 2004-2, the Commission has determined that an increase is not warranted at this time. Accordingly, the Commission has required the licensee to maintain its expenditures on Canadian programming at a minimum of 40% of the previous year's gross revenues. A **condition of licence** to this effect is set out in the appendix to this decision.

Expenditures on program development

10. In *Space: The Imagination Station – Approved*, Decision CRTC 96-605, 4 September 1996, the Commission noted the licensee's commitment to spend a total of \$50,000 annually on program development, including the encouragement of script development from Canadian writers in the science fiction, science fact and speculation genres.
11. In its application to renew the licence for Space, CHUM stated that it would carry this commitment forward, and that it would increase the existing commitment to \$100,000 annually. The Commission notes the commitment, and expects the licensee to fulfil this commitment throughout the new licence term.

Nature of service

12. Analysis of the programming offered by Space during the current licence term indicated that, over the broadcast years 1997-1998, 1998-1999 and 1999-2000, Space broadcast almost 100 hours of programming drawn from subcategory 8(b) Music video clips, a subcategory that is not included in the list of categories in the condition of licence describing Space's nature of service. The Commission notes that this non-compliance represented approximately 1% or less of each of the three broadcast years affected.

13. In response to this apparent non-compliance, the licensee stated:

Shortly after the launch of Space the programmers began to run a small number of “outer space related” music videos, a category not included in Condition of Licence number 1. This oversight was noticed and has been corrected.

14. CHUM also stated that:

CHUM has now developed and installed new software that automatically tracks conditions of licence in the program logs for our various services. Should the program or traffic department attempt to schedule material not included within the nature of service for a particular channel, this software will “flag” any such occurrences and allow for corrective action before it happens.

The development and implementation of this software system was a direct result of the oversight noted above. We believe these safeguards, along with proper training and information flow will prevent any such incident from happening in the future.

15. The Commission notes the mechanisms that CHUM has put in place, and is satisfied that they will be sufficient to prevent the future broadcast on Space of material drawn from unauthorized categories.

Exhibition of Canadian programming

16. In each broadcast year, Space is currently required to devote a minimum of 50% of the broadcast day, and 40% of the evening broadcast period to Canadian programs. In the new licence term, CHUM proposed to maintain those levels, throughout the new term.

17. During the licence renewal process, the Commission explored with the licensee the possibility of increasing the Canadian content level on Space. CHUM responded:

CHUM submits that Space’s Canadian content levels remain entirely appropriate given the service’s genre going forward. Sci-fi and fantasy are genres that are most dependent on high budgets, costumes, props, sets and visual effects in order to satisfy audience expectations. [...] The collapse of the international market for film and television programming and a trend toward variety and reality-based programming have contributed to a reduction in the number of all fiction-based drama programs being produced. As a result of these developments, Space is being forced to spend more for each hour of programming and is experiencing real difficulty finding content suitable for the channel.

18. The Commission is satisfied that the current level of Canadian programming for Space is appropriate in the circumstances, accepts the licensee’s commitment for the new term, and has imposed a **condition of licence** to that effect. The text of the condition is set out in the appendix to this decision.

Canadian independent production

19. The licensee stated that, while only two regular programs and a few individual programs each year are produced in-house, it was of the view that the appropriate level of programming broadcast on Space to be acquired from Canadian independent producers would be 50% of all Canadian programs, other than news and current affairs.
20. In its intervention in support of Space's licence renewal, the Canadian Film and Television Production Association suggested that a more appropriate level would be 75%.
21. The Commission notes that, according to CHUM, the current level of self-production on Space is much lower than 50% of all Canadian programming. The Commission further notes that CHUM has not presented submissions or evidence to justify a need to increase self-production. The Commission is therefore not convinced that CHUM has made a compelling argument for setting the minimum level of independent production at 50%.
22. The Commission notes that, while there is currently no standard minimum level of independent production required for specialty television services, a preponderance of Space's programming is currently acquired from independent producers.
23. Based on the above, the Commission considers that it is reasonable to expect CHUM, for the duration of the new licence term, to ensure that a minimum of 75% of all original, first-run Canadian programming other than news and current affairs broadcast on Space is acquired from non-related producers.

Regional reflection and production

24. In its renewal application, CHUM stated that television series set on far-off planets and on space stations in the future are not generally appropriate vehicles for the reflection of regional realities. It did state, however, that filming locations have ranged from New Brunswick to Victoria. CHUM further noted that *SpaceNews* had taken a cross-Canada journey to explore stories submitted through the Space website, and that the resulting reports were expanded into three half-hour specials on Space.
25. The Commission expects the licensee to provide opportunities for producers working outside the major production centres to supply programming for the service.

Cultural diversity

26. 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.

27. The Commission notes that Space is subject to the CHUM corporate 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 cultural diversity.
28. 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. 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 CHUM to take steps during the new licence term to address any gap in the on-air presence of members of the four designated groups on Space.

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. In the present case, the licensee made a commitment to close caption 90% of all programming broadcast on Space during each broadcast day of the new licence term, beginning 1 September 2004.

34. Consistent with this commitment and with the Commission's general approach for English-language services, the Commission is imposing a **condition of licence** requiring the licensee to close caption not less than 90% of all programming aired during the broadcast day, beginning not later than 1 September 2004. A condition of licence to this effect 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 description² and video description (also known as described video).³
38. In its renewal application, CHUM stated that Space is not currently technically capable of delivering video description. Nevertheless, CHUM indicated that it would be able to broadcast three hours of described programming per week, beginning in September 2004, increasing to four hours per week in September 2006, matching the commitment of its NewNet stations. With respect to audio description, CHUM noted that it had guidelines governing the use of voice-overs to accompany on-screen text information.
39. Consistent with CHUM's commitment and with the approach set out in Public Notice 2004-2, and given the nature of the service and the programming it provides, the Commission has determined that it would be appropriate to require the licensee to provide a minimum of two hours of described video programming each week, beginning not later than 1 September 2005, and to increase that amount to a minimum of three hours each week, beginning not later than 1 September 2008. A **condition of licence** to this effect is set out in the appendix to this decision.

² 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.

³ 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.

40. The Commission further expects that, during the new licence term, the licensee will:
- provide audio description wherever appropriate;
 - acquire and broadcast the described version 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

41. 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

42. 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 2004-19

Conditions of licence

1. (a) The licensee shall provide a national, English-language specialty television service consisting of science fiction, science and fantasy.
- (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:
 - 1 News
 - 2 (a) Analysis and interpretation
(b) Long-form documentary
 - 3 Reporting and actualities
 - 5 (b) Informal education/Recreation and leisure
 - 7 Drama and comedy
 - (a) Ongoing dramatic series
 - (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
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
2. In each broadcast year, the licensee shall devote to the exhibition of Canadian programs not less than 50% of the broadcast day, and not less than 40% 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 each broadcast year of the licence term, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 40% of the gross revenues derived from the operation of this service during the previous broadcast year.
 - (b) 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.
 - (c) 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.
 - (d) Notwithstanding paragraphs (b) and (c) 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 \$0.29 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 2004.
7. In each broadcast year of the licence term, the licensee shall provide a minimum of two hours of described video programming during each broadcast week, beginning not later than 1 September 2005, increasing to a minimum of three hours beginning not later than 1 September 2008. In fulfilling this condition, a minimum of 50% of the required hours must be original to the service.
8. 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).
9. 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.
10. 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 terms "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 "broadcast week" shall have the same meaning as that set out in the *Radio Regulations, 1986*. 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 on the service.