



Broadcasting Decision CRTC 2004-15

Ottawa, 21 January 2004

CHUM Limited
Across Canada

*Application 2002-0952-9
Public Hearing in the National Capital Region
26 May 2003*

MuchMoreMusic – Licence renewal

*In this decision, the Commission **renews** the broadcasting licence for the specialty television service known as MuchMoreMusic, 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 MuchMoreMusic.
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 36 letters specifically in support of MuchMoreMusic's licence renewal application. The Commission also received an intervention raising concerns about the lack of closed captioning of music videos. The concerns raised by the intervener 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 MuchMoreMusic, 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.
6. The licensee requested the renewal of the licence for MuchMoreMusic under the same terms and conditions as the existing licence.

Nature of service

7. As part of the renewal process, the Commission discussed with the licensee a number of possible amendments to MuchMoreMusic's nature of service condition of licence that the Commission considered would make it clearer and more precise and would reflect the revisions to the program categories adopted 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 (Public Notice 1999-205). The licensee generally agreed that the amendments suggested by the Commission were acceptable.
8. The Commission notes that MuchMoreMusic's nature of service condition of licence, in its current form, does not include a specific description of the service to be provided. The Commission will therefore add the following description, which is based on the description set out in *MuchMoreMusic – Approved*, Decision CRTC 96-611, 4 September 1996, the original licensing decision, to the service's nature of service condition of licence:

The licensee shall provide a specialty television service designed for an adult audience, consisting primarily of music video clips featuring adult contemporary, light rock, classic hits and some soul, jazz, rhythm and blues, reggae, and new age music.

9. The Commission notes that, while MuchMoreMusic's existing conditions of licence specify that it must "provide programs consisting primarily of music or music-related programs," the term "music-related" is not defined. The Commission will therefore add the following definition of music-related to MuchMoreMusic's nature of service condition of licence:

"Music-related" shall be defined as about music or the music or recording industries, or about or featuring musical artists, concerts and musical performances, compositions or events.

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

10. Finally, the Commission discussed with the licensee that MuchMoreMusic's nature of service condition of licence did not include a list of program categories that could be broadcast.
11. The licensee expressed concern that specifying the categories from which MuchMoreMusic can draw programming could, "at some point in the future, unintentionally restrict the types of programming the service intends to offer its viewers." It therefore requested that all programming categories, except category 15 Filler programming, appear in its nature of service condition of licence.
12. The Commission acknowledges that adding categories 1 to 14 to MuchMoreMusic's nature of service definition does not change the overall service that MuchMoreMusic may provide. The Commission considers that adding a list of categories from which the service may draw programming to MuchMoreMusic's conditions of licence, however, would be consistent with the conditions of other specialty services and would make it explicit that MuchMoreMusic can draw programming from any category provided it is consistent with the service's nature of service. Accordingly, the Commission will add categories 1 to 14 to MuchMoreMusic's nature of service condition of licence. The amended **condition of licence** on the nature of service is set out in the appendix to this decision. It incorporates all the amendments discussed above.

Music video programs

13. As part of a discussion on the appropriate spending requirement, as discussed further below, the licensee proposed to reduce, from 65% to 50%, the proportion of MuchMoreMusic's schedule that is devoted to music videos. CHUM stated that MuchMoreMusic's audience is "not as enamoured with music videos, so we are finding greater success with our non-music video, music-related, but not music video programming, such as documentaries, concerts, profiles, news and stuff like that."
14. The Commission considers that reducing the proportion of MuchMoreMusic's schedule that is devoted to music videos would allow the service to offer programming that better reflects the preferences of its target audience while continuing to promote artists and new programs that focus on music. Accordingly, the Commission reduces from 65% to 50% the percentage of MuchMoreMusic's schedule that must be devoted to music videos.
15. Furthermore, to reflect the amendments the Commission has made to the subcategories of program category 8 in Public Notice 1999-205, it will add category 8(c) Music video programs to the program categories that will fulfil the licensee's 50% music video requirement. The amended **condition of licence** is set out in the appendix to this decision.

Expenditures on, and exhibition of, Canadian programming

Expenditures

16. While MuchMoreMusic is not currently subject to a traditional Canadian programming expenditure (CPE) requirement, its current condition of licence requires it to contribute 5% of the previous year's gross revenues to VideoFACT, a music video production fund that was set up in 1984 by CHUM to coincide with the launch of its music video specialty service, MuchMusic. Approximately 40% of its contributions over the last term have gone to PromoFACT, a program within VideoFACT, for the development of electronic promotion and press kits. CHUM submitted that the 5% level remains appropriate given that, as mentioned in the previous section, its target audience is not primarily interested in music videos.
17. As noted above, the licensee suggested that should the Commission reduce the proportion of MuchMoreMusic's schedule that must be devoted to music videos, it would be reasonable for the licensee to assume a condition of licence requiring it to expend 31% of the previous year's gross revenues on Canadian programming, including a 5% contribution to VideoFACT and PromoFACT.
18. Considering the amendment to the licensee's nature of service condition of licence that will permit it to reduce the proportion of its schedule devoted to music videos, the Commission considers that the addition of a more traditional CPE requirement is appropriate. Accordingly, the Commission is requiring the licensee, in each year of the licence term, to expend 31% of the previous year's gross revenues on Canadian programming, of which 5% must be directed to VideoFACT and PromoFACT, beginning 1 September 2004. A **condition of licence** to this effect is set out in the appendix to this decision.
19. In addition, the Commission notes CHUM's statement that approximately 40% of its 5% contribution to VideoFACT will go to PromoFACT.
20. The Commission requests that VideoFACT report annually on the contributions it receives from music video services and on its disbursements, including a breakdown of the amounts going to the production of music videos and those given to PromoFACT.

Exhibition

21. The licensee is currently required to ensure that 30% of the music videos distributed by MuchMoreMusic, during each broadcast week, are Canadian music videos. The licensee indicated that it exceeded this condition of licence, airing over 33% Canadian videos over its licence term. Nevertheless, the licensee stated that an increase in its minimum obligation would be inappropriate given that the availability of Canadian music videos has decreased and that MuchMoreMusic contributes to the industry in other ways, such as broadcasting artist profiles, interviews and concerts.

22. The Commission notes the licensee's statements that there has been a decrease in the supply of Canadian music videos and that increased competition in the music video genre has not spurred the development of more music videos. In addition, the Commission recognizes that MuchMoreMusic contributes to the industry through the broadcast of a broad array of music-related programming.
23. More importantly, the Commission's general approach, as set out in Public Notice 2004-2, has been to focus on increasing the amount that the licensee spends on the production of new Canadian programming rather than on increasing the overall amount of such programming that it exhibits.
24. In light of the above, the Commission does not consider that increasing the proportion of MuchMoreMusic's music videos that must be Canadian is necessary at this time. Accordingly, the Commission maintains the licensee's current minimum level of 30%.
25. The Commission encourages the service to continue exceeding its 30% requirement over its next licence term.

Broadcast day

26. At the hearing, the licensee confirmed that, although MuchMoreMusic's broadcast day definition is for 18 hours, the service operates on a 24-hour broadcast day. The licensee stated that it would prefer a 24-hour broadcast day for MuchMoreMusic given that CHUM's four other music video services operate on a 24-hour broadcast day.
27. The Commission is of the view that an amendment to MuchMoreMusic's definition of a broadcast day to incorporate a 24-hour rather than 18-hour day is appropriate. Effective 1 September 2004, the broadcast day shall mean a 24-hour period commencing at 6 a.m., each day, or any other period approved by the Commission.

Canadian independent production

28. The licensee submitted that MuchMoreMusic should not be subject to a condition of licence with regard to independent production given that most of its schedule is devoted to music video programming, which is, by necessity, produced in-house.
29. The Commission recognizes that music video specialty services like MuchMoreMusic must produce most of their programming in-house and considers that, in the case of MuchMoreMusic, a condition of licence with regard to independent production is unnecessary at this time.

Regional reflection and production

30. The licensee stated that MuchMoreMusic has increased its regional coverage of the Canadian music and cultural scene through regional music-related stories submitted by east- and west-coast videographers and freelancers stationed throughout the country.

These features and reports are shown in daily news dispatches and in a weekly compilation program. The licensee further indicated that MuchMoreMusic's playlist features artists from across the country in a number of genres.

31. The Commission expects the licensee to continue to ensure that the programming aired by MuchMoreMusic reflects all Canada's regions.

Cultural diversity

32. 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.
33. During the current licence term, the licensee 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. MuchMoreMusic adheres to the policies, procedures and initiatives of the CHUM Cultural Diversity Best Practices plan.
34. The Commission expects the licensee to continue to contribute to cultural diversity and to implement the commitments set out in the CHUM 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

35. 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*. The Commission continues to regulate matters such as on-air presence.
36. 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. The Commission further expects CHUM 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 MuchMoreMusic.

Service to persons who are deaf or hard of hearing

37. 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.
38. In the present case, the licensee made a commitment to close caption 90% of all non-music programming, including presentations by program hosts, broadcast on MuchMoreMusic during each broadcast day of the new licence term by August 2005. The licensee estimated that it would cost \$200,000 to caption 90% of all non-music programming immediately.
39. One intervener, Mr. Joe Clark, argued that music videos should be closed captioned.
40. In response to Mr. Clark, the licensee confirmed that all VideoFACT-funded videos are captioned:

It is a requirement of receiving VideoFACT funding that videos must be closed captioned. However, MuchMoreMusic has, in the past, not been immediately serviced with the closed-captioned versions, and therefore, non-captioned versions were broadcast on the service. We now no longer consider a VideoFACT-funded video for airplay until a captioned version has been received.
41. The Commission has generally extended some flexibility to those services with revenues under \$10 million. It notes, however, that MuchMoreMusic earns more than \$10 million in annual revenue. Furthermore, in the Commission's view, the cost of offering closed captioning is part of the expense of holding a broadcasting licence.
42. In light of the above and 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 non-music programming, including presentations by program hosts, 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.
43. 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.

44. 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.
45. The Commission further expects the licensee to fulfil its commitment that VideoFACT-funded videos will not be considered for airplay until a captioned version has been provided. In addition, the Commission encourages the licensee to ensure that all videos are captioned.

Service to persons who are blind or whose vision is impaired

46. 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
47. The licensee stated that CHUM channels follow guidelines governing the use of voice-overs to accompany on-screen text information. It further indicated that it is CHUM's policy to inform existing and new producers about the importance of accessibility to television for all people.
48. The licensee also indicated that MuchMoreMusic is not currently technically equipped for described video, but added that the service could be equipped within 90 days of the resolution of the outstanding delivery issues described in Public Notice 2004-2. Furthermore, the licensee submitted that while MuchMoreMusic does not believe that specific commitments to described video are appropriate for a music video service, it undertakes to obtain and broadcast described versions of programming whenever they are available.
49. 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.

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.

Programming delivered across time zones

50. The Commission notes that there have been some concerns about the scheduling by MuchMoreMusic of potentially inappropriate programming at times when children may be watching.
51. The licensee stated that it has mechanisms in place to ensure that it is sensitive to its viewers in terms of its programming and its scheduling. It explained, for example, that, on a weekly basis, a team of producers and programmers screens all videos submitted to its music stations. When any member of the team considers that a video's content could raise problems with respect to the Canadian Association of Broadcasters' codes, the video may not be considered for broadcast until it has been reviewed and accepted by the Internal Review Committee (IRC).
52. The licensee also stated that it adheres to all of the industry codes and, based on the advice of its IRC, will broadcast certain music videos or long-form programming only after 9 p.m. or after midnight, with appropriate advisories, as warranted.
53. The Commission notes the steps MuchMoreMusic is taking to address viewers' concerns. The Commission further reminds the licensee that, while the target audience of the service may not be children or youth, it must continue to schedule its programming in a way that takes into account that children or youth may be watching at any time. 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

54. 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 2004-15

Conditions of licence

1. (a) The licensee shall provide a national, English-language specialty television service designed for an adult audience, consisting primarily of adult contemporary, light rock, classic hits and some soul, jazz, rhythm and blues, reggae, and new age music.
- (b) The licensee shall also provide programs consisting of music, or music-related programs with music and pop news or commentaries, interviews, concerts, profiles and specials, plus music feature films and music-related or -themed series or programs. "Music-related" shall be defined as about music or the music or recording industries, or about or featuring musical artists, concerts and musical performances, compositions or events.
- (c) The licensee shall draw 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
 - 2 (a) Analysis and interpretation
(b) Long-form documentary
 - 3 Reporting and actualities
 - 4 Religion
 - 5 (a) Formal education and pre-school
(b) Informal education/Recreation and leisure
 - 6 (a) Professional sports
(b) Amateur sports
 - 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
 - 8 (a) Music and dance other than music video programs or clips
(b) Music video clips
(c) Music video programs
 - 9 Variety
 - 10 Game shows
 - 11 General entertainment and human interest
 - 12 Interstitials

- 13 Public service announcements
14 Infomercials, promotional and corporate videos
- (d) The licensee shall devote not less than 50% of the broadcast week to programming from categories 8(b) and (c).
 - (e) The licensee shall devote not more than 15% of the broadcast week to music-related programs from categories 7(a), (d) and (e).
 - (f) The licensee shall not broadcast more than one music-related feature film in each broadcast week. This film may be broadcast only once during the evening broadcast period, but it may be repeated up to three (3) times in other time periods during the same week.
 - (g) No more than 30% of video clips broadcast on MuchMoreMusic shall be country music videos. The definition of country music is music falling into subcategory 22 Country and country-oriented as set out in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
2. (a) 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.
- (b) Not less than 30% of the total number of music videos distributed by the licensee during each broadcast week shall be Canadian music videos.
- (c) The licensee shall schedule its Canadian music videos evenly throughout each broadcast week and in a reasonable manner throughout each broadcast day.
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 contribute 5% of the previous broadcast year's gross revenues derived from the operation of its service to VideoFACT.

- (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 31%, including 5% to VideoFACT for Canadian talent development, of the gross revenues derived from the operation of MuchMoreMusic 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 national paid advertising.
5. The licensee shall charge each exhibitor of this service a maximum wholesale rate of \$0.03 per subscriber per month, 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 non-music programming, including presentations by program hosts, aired during the broadcast day, beginning not later than 1 September 2004.
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 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*. "Broadcast week" shall have the same meaning as that set out in *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. Effective 1 September 2004, the term "broadcast day" shall mean a 24-hour day commencing at 6 a.m. each day, or any other period approved by the Commission.