



## Broadcasting Decision CRTC 2004-396

Ottawa, 31 August 2004

### **CHUM Television Vancouver Inc.**

Vancouver and Courtenay, British Columbia

*Application 2003-1580-6*

*Public Hearing in the National Capital Region*

*7 June 2004*

### **CKVU-TV Vancouver and its transmitter – Licence renewal**

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

### **The application**

1. The Commission received an application by CHUM Television Vancouver Inc. (CHUM) for the renewal of the broadcasting licence for the television programming undertaking CKVU-TV Vancouver and its transmitter CKVU-TV-1 Courtenay. A total of 28 interventions were filed in support of CHUM's application. The Canadian Film and Television Production Association (CFTPA), however, stated in its intervention that its support was conditional on the applicant providing greater precision regarding its programming expenditures over the current licence term and clearer information on its plans for priority programming and the use of independent production. These matters are discussed in the following section.

### **Priority programming and the use of independent production**

2. CHUM is a wholly owned subsidiary of CHUM Limited, itself the owner of a smaller multi-station group, as defined by the Commission in *Building on success - A policy framework for Canadian television*, Public Notice CRTC 1999-97, 11 June 1999 (the television policy). The television policy defines a larger multi-station group as one licensed to operate in several provinces and whose stations have a combined potential reach of more than 70% of the national audience in their language of operation. Groups meeting this definition include CTV Television Inc., Global Communications Limited, and TVA Group Inc. The television stations belonging to each of these larger ownership groups were the subject of group renewal proceedings in 2001. By conditions of licence

imposed in the renewal decisions issued as part of those proceedings, the stations are required to broadcast a minimum of eight hours per week of priority programming, as called for by the television policy.

3. CHUM Limited operates conventional television stations in only two, as opposed to several provinces. Moreover, as noted in *Licence renewal for seven CHUM Limited television stations*, Broadcasting Decision CRTC 2002-323, 21 October 2002 (Decision 2002-323), the national potential reach of that ownership group was approximately 67%, or just below the threshold of 70% specified by the Commission in its definition of a larger multi-station group. However, as was also noted in Decision 2002-323, CHUM Limited, on behalf of each of its television stations (other than CITY-TV Toronto), agreed to accept conditions of licence requiring the stations, including CKVU-TV Vancouver, to broadcast a minimum of eight hours per week of priority programming between 7:00 p.m. and 11:00 p.m. Accordingly, in *Licence renewal for CKVU-TV Vancouver and its transmitter CKVU-TV-1 Courtenay*, Broadcasting Decision CRTC 2002-330, 21 October 2002 (Decision 2002-330), the Commission imposed such a condition of licence. In addition, the Commission required that the eight hours of priority programming be distinct from the eight hours of such programming aired on CIVI-TV Victoria, which is owned by CHUM Limited. In its renewal application, CHUM made a commitment to continue to adhere to this condition of licence throughout the new licence term.
4. The licensee stated that it would also continue to adhere to its commitment to broadcast a minimum of 100 hours per broadcast year of Canadian long-form features during peak viewing hours, including theatrical features, movies-of-the-week and a maximum of ten hours of feature-length documentaries. Further, the licensee renewed its commitment to broadcast on CKVU-TV Vancouver the programs resulting from a \$7 million benefits initiative for the pre-licensing of theatrical feature films and feature length documentaries produced in British Columbia. This initiative was proposed by CHUM Limited in the context of its application to acquire effective control of the station, and accepted by the Commission in *Transfer of control of CKVU-TV Vancouver*, Decision CRTC 2001-647, 15 October 2001 (Decision 2001-647).

#### *The CFTPA's intervention*

5. The CFTPA, among other things, recommended in its intervention that the Commission oblige the licensee to adhere to its commitments with regard to expenditures on script and concept development, the airing of priority programming and the exhibition of Canadian features on CKVU-TV. It also suggested that CHUM should file public reports each year on its acquisition of "original" productions, and also make public the annual reports that summarize its progress in meeting its benefits commitments relating to CKVU-TV. According to the CFTPA, at least 75% of the priority programming broadcast each week on CKVU-TV should be obtained from non-affiliated independent producers. 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. Further, the CFTPA indicated that CHUM's proposed Canadian program expenditures of \$17.2 million over the new licence term is less than the amount that it spent over the past four years, and is also less than the amount CHUM Limited proposed for the Alberta market. The CFTPA therefore recommended that the Commission discuss with CHUM its projected priority program expenditures in the Vancouver-Victoria market over the next licence term.

*CHUM's response to the CFTPA intervention*

6. In responding to the intervention by the CFTPA, CHUM noted 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 the television policy.

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

### **Priority programming and independent production**

7. The Commission has examined the CFTPA's proposals and is satisfied with CHUM's response to the intervention. The Commission notes in particular that CKVU-TV has no specific condition of licence requirement to acquire independent programming. Rather, in Decision 2002-323, the Commission stated the expectation that CHUM Limited, as the owner of a group of television stations, ensure that at least 75% of all Canadian priority programming that these stations broadcast, on average, over the broadcast year is produced by independent production companies. The Commission considers that this expectation adequately addresses the concerns raised by the CFTPA.
8. Consistent with the licensee's existing conditions of licence set out in Decision 2002-330, and its commitment to ongoing adherence to those requirements, the appendix to this decision contains renewed conditions of licence with respect to the broadcast on CKVU-TV of priority programming distinct from that aired on CIVI-TV Victoria, the broadcast of Canadian long-form features during peak viewing hours, and the broadcast of programming produced as a consequence of expenditures made in fulfilment of the benefits package offered by CHUM Limited at the time it acquired ownership of CKVU-TV.
9. The Commission expects CHUM to adhere to its commitment to ensure that all of the programming produced through the \$7 million in benefits accepted by the Commission in Decision 2001-647 for the pre-licensing of theatrical feature films and feature length documentaries produced in British Columbia are broadcast across the Canadian broadcast system on other CHUM Limited stations such as CITY-TV Toronto.
10. The Commission also expects the licensee to adhere to its commitment to spend, over the licence term, a minimum of \$476,000 for script and concept development. This amount is in addition to any spending related to benefits accepted in Decision 2001-647.

### **Safeguards to ensure diversity of views and opinions**

11. In addition to the condition of licence noted above concerning the broadcast of priority programming on CKVU-TV Vancouver that is distinct from that broadcast on CIVI-TV Victoria, the Commission expects the licensee to fulfil its commitments to safeguards intended to ensure that the ownership of two television stations in the same market does not reduce the diversity of views and opinions available to television viewers in the market. Specifically, the Commission expects the licensee to ensure that:
- no more than 10% of the weekly program schedule of CKVU-TV overlaps with that of CIVI-TV;
  - the management of CKVU-TV's news and other programming is kept separate from the management of news and other programming on CIVI-TV;
  - the creation and broadcast of news and information programming on one station is kept editorially and physically separate from that of the other;
  - there is no material duplication of the news programming from one station to the other; and
  - annual reports are filed on the licensee's performance in applying the above safeguards.

### **Local reflection**

12. An existing condition of CHUM's licence requires the licensee to broadcast a minimum of 15.5 hours of original local news programming and 12 hours of original local non-news programming during each broadcast week. In its renewal application, the licensee requested the flexibility to take up to 3.5 of the weekly hours that it currently must devote to local news, and reallocate that amount of time, as circumstances warrant, between local news, other types of local programming, or a combination thereof. Specifically, CHUM asked the Commission to amend the condition of licence by reducing the minimum number of hours of local news from 15.5 to 12, while retaining 27.5 hours per week as the total minimum required amount of original local news and non-news programming combined.
13. The Commission is satisfied that the flexibility requested by the licensee is reasonable and has therefore amended the **condition of licence**, as set out in the appendix, to read as follows:

The licensee shall broadcast during each broadcast week a minimum of 27.5 hours of original local programming, of which a minimum of 12 hours will consist of original local news programming and a minimum of 12 hours will consist of original local non-news programming.

### Reflection of Canada's diversity

14. 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.
15. In its application, CHUM stated that all of CKVU-TV's local programming reflects Vancouver's multicultural reality. The applicant stated that it produces balanced programs, including news programs, features and third-language programs that serve the diverse Vancouver community. CHUM noted that, during the current licence term, it supported an Aboriginal producer, sponsored events catering to women and arts events catering to different ethnic communities.
16. The applicant also stated it is building on CHUM's *Cultural Diversity Best Practices* statement and has developed a *Corporate Action Plan on Cultural Diversity*. As well, the licensee has developed a list of contacts and experts from different Aboriginal and ethnic communities who can provide expert advice on issues important to those groups.
17. As noted 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, 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.
18. Further, the Commission expects the licensee to adhere to its commitments to broadcast on CKVU-TV a minimum of six hours each broadcast week of original local multicultural and Aboriginal programming, to increase programming directed to visible minority youth, and to provide multicultural programming in English to second- and third-generation Canadians of various origins.

### Service to persons who are blind or whose vision is impaired

19. 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.
20. Greater programming accessibility can be achieved through the provision of audio description<sup>1</sup> and/or of video description<sup>2</sup>. All broadcasters can, and should, provide audio description.
21. CHUM advised that it has implemented guidelines to its staff governing the use of voice-overs to accompany on-screen text information, and has circulated the Canadian Cable Television Association’s *Guidelines on Cable Service to Blind and Vision-Restricted Customers*. It added that efforts have been made to accompany on-screen titles and textual descriptions (keys and supers) with audio description, particularly in the case of news. CHUM indicated that it was also its policy to inform existing and new producers about the importance of accessibility to television for all people.
22. Further, the licensee confirmed that it would abide by the condition of licence concerning the provision of described video programming imposed on CKVU-TV and other television stations within the CHUM Limited group in Decision 2002-323. Accordingly, 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 per week of described video programming on CKVU-TV during each of the first two years of the new licence term, increasing to an average of four hours per week during each remaining year of the new licence term. As part of this condition, 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.
23. 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.

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<sup>1</sup> 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.

<sup>2</sup> 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.

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

24. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.
25. 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 deaf or whose hearing is impaired**

26. In Decision 2002-330, the Commission required the licensee to caption 90% of all programming during the broadcast day, including 100% of all category 1 – News programming. This **condition of licence** will continue to apply in the new licence term.

### **Conclusion**

27. In Decision 2002-330, the Commission renewed the licence for CKVU-TV for a short term, until 31 August 2004. The Commission noted that the expiry date would coincide with the expiry of the current licence issued to CHUM Limited for CIVI-TV Victoria. The Commission indicated that, at the time of licence renewal, it would wish to be satisfied that CHUM's commitments were commensurate with the privilege that its parent, CHUM Limited, holds as owner of two television stations operating in Canada's second-largest English-language television market.
28. The Commission has reviewed CHUM's past performance, its renewal application and the comments of interveners. 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. Based on this examination, and on a similar process the Commission has conducted concurrently with respect to the licence renewal of CIVI-TV Victoria<sup>3</sup>, the Commission has further 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 satisfactory and are commensurate with the privilege that CHUM's parent company holds as the owner of two television stations in the Vancouver/Victoria market.

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<sup>3</sup> See *CIVI-TV Victoria and its transmitter – Licence renewal*, Broadcasting Decision CRTC 2004-395, 31 August 2004.

29. Accordingly, the Commission **renews** the broadcasting licence for CKVU-TV Vancouver and its transmitter CKVU-TV-1 Courtenay 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.
  
30. 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 the ownership of CHUM Limited.

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 2004-396

### 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. This programming shall be distinct from the eight hours of such programming broadcast on CIVI-TV Victoria.
  - 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 broadcast during each broadcast week a minimum of 27.5 hours of original local programming, of which a minimum of 12 hours will consist of original local news programming and a minimum of 12 hours will consist of original local non-news programming.
3. The licensee shall broadcast a minimum of 100 hours per broadcast year of Canadian long-form features during peak viewing hours, including theatrical features, movies-of-the-week and a maximum of ten hours of feature-length documentaries.
4. The licensee shall broadcast on CKVU-TV the programs resulting from CHUM Limited's \$7 million benefits initiative for the pre-licensing of theatrical feature films and feature length documentaries produced in British Columbia.
5. The licensee shall caption a minimum of 90% of all programming during the broadcast day, including 100% of all category 1 – News programming.
6. 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 programming that is directed to children and is broadcast at a viewing time that is appropriate for children.