



Broadcasting Decision CRTC 2009-616

Route reference:
Broadcasting Public Notice 2008-85

Ottawa, 5 October 2009

YTV Canada Inc.
Across Canada

Application 2008-1188-7, received 3 September 2008

YTV – Licence amendments

*The Commission **approves** the request by YTV Canada Inc. (YTV Canada) to amend the broadcasting licence for the national, English-language specialty programming undertaking known as YTV, by amending the condition of licence relating to the broadcast of a certain percentage of programming that must be devoted to programs from non-North American sources.*

*The Commission **denies** the requests by YTV Canada to amend the condition of licence relating to specified percentages of programming targeting children, youth and their families, and to delete the condition of licence relating to the distribution of feature films in the evening broadcast period.*

Introduction

1. The Commission received an application by YTV Canada Inc. (YTV Canada) to amend the broadcasting licence for the national, English-language specialty programming undertaking known as YTV.
2. YTV Canada proposed to replace condition of licence 1 (a),¹ which currently reads as follows:

The licensee shall provide a national, English-language specialty programming service targeted to children, youth and their families. In each broadcast year, a minimum of 30% of the programming distributed on the service shall have as its target audience children up to 5 years of age, a minimum of 48% shall have as its target audience children and youth 6 to 17 years of age, and a maximum of 22% shall have as its target audience families.

with the following condition of licence:

The licensee shall provide a national, English-language specialty programming service targeted to children, youth and their families.

¹ The current conditions of licence cited in this decision are set out in Broadcasting Decision 2006-381.

3. The licensee proposed that, should the Commission deem it necessary for the condition of licence to indicate the minimum and maximum percentages of programming that should be directed to each of the targeted audiences, the condition of licence read as follows:

The licensee shall provide a national, English-language specialty programming service targeted to children, youth and their families. In each broadcast year, a minimum of 15% of the programming distributed by the service shall have as its target audience children up to 5 years of age, a minimum of 63% shall have as its target audience children and youth 6 to 17 years of age, and a maximum of 22% shall have as its target audience families.

4. YTV Canada also proposed to delete condition of licence 5(b), which reads as follows:

In any seven-day period of Sunday to Saturday, in the evening broadcast period, the licensee shall distribute no more than two feature films.

5. Finally, the licensee proposed to delete condition of licence 8, which reads as follows:

In each broadcast year, the licensee shall devote a minimum of 35% of its non-Canadian programming to programs from non-North American sources.

6. It alternatively proposed that, should the Commission consider it necessary to maintain a condition of licence for YTV relating to programs from non-North American sources, the percentage be reduced from 35% to 15%.
7. YTV Canada submitted that the above-mentioned conditions of licence, which were first imposed on YTV more than 20 years ago in the original licensing decision,² are unduly restrictive and no longer appropriate.
8. The Commission received several interventions in support of this application. The Commission also received several interventions in opposition to this application, as well as several interventions offering general comments. The interventions and the licensee's replies to the interventions can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

9. After examining the application, the interventions and the licensee's reply to the interventions, the Commission considers that the issues to be addressed in its determinations are the following:

² See Decision 87-903. In that decision, the condition of licence relating to the broadcast of feature films during the evening broadcast period was listed as condition of licence number 6(b), whereas the condition of licence relating to the minimum percentage of programming to be devoted to programs from non-North American sources was condition of licence number 10.

- the removal of the specific percentages relating to programming for specific age groups;
- the removal of the restriction on the distribution of feature films in the evening broadcast period; and
- the removal or reduction of the obligation to broadcast non-Canadian programming from non-North American sources.

Removal of the specific percentages relating to programming for specific age groups

10. YTV Canada argued that, while it was the only source of programming serving widely differing views from toddlers, children, teenagers and families at the time it was licensed, its preschool audiences have dropped by almost 50% in the past three years. The licensee attributed this drop in viewership to newer services such as Treehouse TV, Family Channel and Teletoon.
11. The Commission notes that the newer services cited by the licensee are typically carried on discretionary tiers by broadcasting distribution undertakings at an additional cost to subscribers, whereas YTV is typically available on basic cable. The Commission further notes that YTV Canada did not submit any evidence that there was a financial rationale for a proposed amendment that could potentially result in a fundamental change to the nature of service of YTV.
12. Furthermore, the Commission considers that YTV continues to be an important source of programming for children of all ages, whose families may not be in a financial position to pay for the discretionary tiers so that they may access Treehouse TV, Family Channel and Teletoon.
13. Accordingly, the Commission does not consider it appropriate to approve the request by YTV Canada to remove the specific percentages relating to programming for specific age groups.

Removal of the restriction on the distribution of feature films in the evening broadcast period

14. In its application, YTV Canada stated that the condition of licence relating to the restriction on the distribution of feature films is a scheduling restriction only. It argued that its removal would have no impact on the number of films it exhibits or on the types of films it might acquire, and would have a negligible impact on the extent to which it might compete with conventional broadcasters for feature film rights.
15. The Commission notes that the Canadian Film and Television Production Association opposed the proposed amendment and, as an alternative, suggested increasing the number of feature films to three.

16. In its licence renewal application leading to the issuance of Broadcasting Decision 2006-381, YTV Canada proposed to delete this condition of licence. At that time, the Commission considered that YTV Canada had not sufficiently demonstrated the need to delete the condition of licence and expressed concern that its deletion could increase competition for feature film rights and give Corus Entertainment Inc. the ability to acquire both first and second window rights to most feature films, which would be detrimental to conventional television.
17. The Commission considers that the licensee has not provided any evidence justifying the need for this amendment, and that it has not addressed the concerns expressed by the Commission in Broadcasting Decision 2006-381. Accordingly, the Commission does not consider it appropriate to approve YTV Canada's request to delete YTV's condition of licence relating to the distribution of feature films in the evening broadcast period.

Removal or reduction of the obligation to broadcast non-Canadian programming from non-North American sources

18. The Commission considers that the broadcast of non-North American programming contributes to programming diversity in the Canadian broadcasting system. In regard to the present application, the Commission reiterates its view, set out in Broadcasting Decision 2006-381, that there is a need to ensure that YTV acquires non-Canadian programming from outside North America, as this contributes to the objectives of the *Broadcasting Act*. Nevertheless, the Commission considers that some additional flexibility is warranted in regard to YTV's broadcast of non-North American programming.
19. In Broadcasting Public Notice 2008-100, the Commission set out determinations relating to maintaining genre exclusivity for Canadian services. However, in that public notice, the Commission also stated the following:

The Commission has also decided to simplify and streamline the rules that govern both nature of service definitions and program categories from which services may draw programming. The Commission's intent in this respect is to ensure that the nature of service set out in the licensee's conditions of licence reflects, as specifically as possible, the unique characteristics of the service.
20. In this regard, the Commission notes that the YTV Canada's proposed reduction in the percentage of non-North American programming broadcast on YTV would not be at odds with YTV's nature of service definition. Further, it would be consistent with the Commission's intent, set out in Broadcasting Public Notice 2008-100, to grant specialty services programming flexibility as long as that flexibility is consistent with the nature of service definition of the service in question. Although the Commission does not consider that it would be appropriate to approve YTV Canada's request to delete its condition of licence relating to the broadcast of non-North American programming, it does consider that it would be appropriate to approve the licensee's request to reduce its obligation in this regard from 35% to 15%.

Conclusion

21. In light of all of the above, the Commission **approves** the request by YTV Canada Inc. to amend the broadcasting licence for the national, English-language specialty programming undertaking known as YTV, by amending the condition of licence relating to the broadcast of a certain percentage of programming that must be devoted to programs from non-North American sources. This condition of licence shall now read as follows:

In each broadcast year, the licensee shall devote a minimum of 15% of its non-Canadian programming to programs from non-North American sources.

22. The Commission **denies** the licensee's request to amend the condition of licence relating to specified percentages of programming targeting children, youth and their families.
23. Further, the Commission **denies** the licensee's request to delete the condition of licence relating to the distribution of feature films in the evening broadcast period.

Secretary General

Related documents

- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *YTV – Licence renewal*, Broadcasting Decision CRTC 2006-381, 18 August 2006
- Decision CRTC 87-903, 1 December 1987

This decision is to be appended to the licence. It is available in alternative format upon request and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>.