



Broadcasting Decision CRTC 2013-737

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Route reference: 2013-448

Ottawa, 20 December 2013

**8324441 Canada Inc., a subsidiary of Corus Entertainment Inc., on behalf of
TELETOON Canada Inc.**

Across Canada

*Applications 2013-0596-2, received 17 April 2013, and 2012-1162-2, 2012-1163-0 and
2012-1164-8, received 13 September 2012*

*Public hearing in the National Capital Region
5 November 2013*

**TELETOON/TÉLÉTOON, TELETOON Retro, TÉLÉTOON Rétro
and Cartoon Network – Change of effective control**

**TELETOON/TÉLÉTOON, TELETOON Retro and TÉLÉTOON Rétro
– Licence renewal and amendment**

*The Commission **approves**, subject to certain modifications and conditions, the application by 8324441 Canada Inc. (8324441 Canada), on behalf of TELETOON Canada Inc. (TELETOON Canada), for authority to effect a change of TELETOON Canada's ownership to 8324441 Canada so that control of the undertakings is exercised by Corus Entertainment Inc. (Corus). In Broadcasting Decision 2013-738, also issued today, the Commission has approved other applications for authority to effect a change of the ownership and control of the undertakings Historia and Séries+ so that control is exercised by Corus.*

The Commission concludes that the transaction as modified in this decision is in the public interest and advances the objectives of the Broadcasting Act. The Commission considers that the transaction will result in a consolidation that will facilitate the creation, promotion and distribution of diverse, high-quality Canadian programming for Canadian and international audiences, particularly in the children's and animation programming sectors. It will also enhance diversity and foster greater competition in the French-language market.

The proposed tangible benefits package will positively impact Canadian content production and original programming by increasing opportunities for Canadian creators, artists and producers. In particular, Corus will contribute \$26.02 million over the next seven years, \$23.185 million of which will be directed to production, script and concept development and export initiatives, including \$5 million to French-language production.

*In approving this application, the Commission has imposed specific measures by **condition of licence** to limit the potential for anti-competitive behaviour by Corus. Further, as a **condition of approval**, the Commission has also required Corus to file licence amendment applications by **30 January 2014** to add these safeguards as conditions of licence for all other television programming undertakings that will be operated by Corus as of the closing of this transaction.*

*The Commission also **renews** the broadcasting licences for the national, English- and French-language specialty Category A service known as TELETOON/TÉLÉTOON and the national English-language specialty Category B service known as TELETOON Retro from 1 April 2014 to 31 August 2016, the licence expiry date of the other services in the Corus designated group.*

*Further, the Commission **renews** the broadcasting licence for the national French-language specialty Category B service known as TÉLÉTOON Rétro from 1 April 2014 to 31 August 2017, which coincides with the end of the licence term for the French-language services Historia and Séries+.*

*The **conditions of licence** for each service being renewed are set out in the appropriate appendices to this decision.*

The applications

1. 8324441 Canada Inc. (8324441 Canada) filed an application on behalf of TELETOON Canada Inc. (TELETOON Canada) for authority to effect a change of TELETOON Canada's ownership to 8324441 Canada so that control of the undertakings is exercised by Corus Entertainment Inc. (Corus), pursuant to subsection 10(4) of the *Specialty Services Regulations, 1990*.
2. TELETOON Canada is the licensee of TELETOON/TÉLÉTOON, TELETOON Retro, TÉLÉTOON Rétro and Cartoon Network (collectively the TELETOON services).
3. 8324441 Canada is a wholly owned subsidiary of Corus, which is ultimately controlled by JR Shaw pursuant to the terms of a voting trust agreement. Corus is a major broadcasting company that specialises in content creation, with interests in radio, conventional and discretionary television, production, publication and marketing. It is also a successful producer of content sold internationally, mostly through the productions of its subsidiary Nelvana Limited (Nelvana).
4. Corus is a corporation affiliated with Shaw Communications Inc. (Shaw), a major communications company with subsidiaries in telecommunications, broadcast programming and distribution. Shaw is also ultimately controlled by JR Shaw, pursuant to the terms of another voting trust agreement. However, while related, Shaw and Corus are structurally separated companies with separate management teams and boards of directors. Nelvana is considered a related producer to both Corus and Shaw.

5. TELETOON Canada is a corporation currently controlled by its board of directors, whose members are nominated by Corus and Mr. Pierre Boivin, the Trustee in control of the interest held by Bell Media Inc. (Bell Media), pursuant to the Voting Trust Agreement approved by the Commission in a letter of approval dated 27 June 2013.
6. The application follows Broadcasting Decision 2013-310, in which the Commission directed BCE Inc. (BCE) to divest itself of a number of assets, including several specialty services such as the TELETOON services.
7. The change in control would be carried out through the transfer of the direct and indirect voting interests of Bell Media in TELETOON Canada to 8324441 Canada. A corporate reorganization and amalgamation would follow, resulting in TELETOON Canada's continuing as the licensee. Following completion of the transaction, the TELETOON Canada undertakings would be controlled by Corus and ultimately controlled by JR Shaw.
8. Pursuant to the Share Purchase Agreement, the applicant would purchase Bell Media's interest in TELETOON Canada for \$249 million.
9. As part of this proceeding, the Commission also considered applications by TELETOON Canada to renew the broadcasting licences for the national English- and French-language specialty Category A¹ service known as TELETOON/TÉLÉTOON, the national English-language specialty Category B² service known as TELETOON Retro and the national French-language specialty Category B service known as TÉLÉTOON Rétro, all of which expire 31 March 2014.³ In the context of the renewals, TELETOON Canada requested certain amendments to the conditions of licence for these services. Corus stated that it had reviewed the licence renewal applications and agreed to adhere to the proposed conditions of licence. At the hearing, Corus agreed to additional modifications to these conditions of licence, as discussed further below.
10. The Commission held a public hearing on 5-6 November 2013 in the National Capital Region. The complete public record for the applications, including the transcript of the hearing, can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

¹ As set out in Broadcasting Public Notice 2008-100, effective 31 August 2011, Category 1 digital and analog pay and specialty services were renamed Category A services.

² As set out in Broadcasting Public Notice 2008-100, effective 31 August 2011, Category 2 digital services were renamed Category B services.

³ The licences for these services were administratively renewed until 31 March 2014 as a result of Broadcasting Decisions 2011-417 and 2013-457.

Regulatory framework

11. The review of ownership transactions is an essential element of the Commission's regulatory and supervisory mandate under the *Broadcasting Act* (the Act). Since the Commission does not solicit competitive applications for changes in effective control of broadcasting undertakings, the onus is on the applicant to demonstrate that approval is in the public interest, that the benefits of the transaction are commensurate with the size and nature of the transaction and that the application represents the best possible proposal in the circumstances.
12. Pursuant to section 5(1) of the Act, the Commission's mandate is to regulate and supervise all aspects of the Canadian broadcasting system in the public interest. The public interest is reflected in numerous objectives of the Act and of the Canadian broadcasting policy set out in section 3(1). For the present ownership transaction, relevant Canadian broadcasting policy provisions include the following:
 - English- and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements [section 3(1)(c)];
 - the Canadian broadcasting system should
 - serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada [section 3(1)(d)(i)];
 - encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view [section 3(1)(d)(ii)]; and
 - through its programming and the employment opportunities arising out of its operations, serve the needs and interests and reflect the circumstances and aspirations of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society [section 3(1)(d)(iii)].
 - the programming provided by the Canadian broadcasting system should (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes, (ii) be drawn from local, regional, national and international sources, (v) include a significant contribution from the Canadian independent production sector [section 3(1)(i)].

13. The Commission must consider each application on its merits, based on the circumstances specific to the application. In addition, the Commission must be assured that approval of a proposed ownership transaction furthers the public interest as expressed in the objectives of the Act and will not impede the ability or willingness of the licensee to meet its obligations under the Act. These obligations include those that arise from conditions of licence, regulations or directions made by the Governor in Council pursuant to the Act.
14. In reviewing the current transaction, the Commission has treated Corus and Shaw in a manner consistent with its past practice. For purposes of determining effective control, Shaw and Corus are considered part of the same ownership group as they are both ultimately controlled by JR Shaw. Similarly, for purposes of implementing the vertical integration (VI) framework set out in Broadcasting Regulatory Policy 2011-601, they are defined as a single vertically integrated entity. Finally, for purposes of applying the Commission's group-based approach (see Broadcasting Regulatory Policy 2010-167), Shaw and Corus are considered two designated licence renewal groups, consistent with Broadcasting Decisions 2011-445 and 2011-446.
15. In the course of implementing the broadcasting policy, the Commission must have regard to the regulatory policy set out in section 5(2) of the Act. That regulatory policy provides, among other things, that the Canadian broadcasting system must be regulated and supervised in a flexible manner that facilitates the provision of broadcasting to Canadians and is sensitive to the administrative burden that may be imposed on persons carrying on broadcasting undertakings.

Overview of positions of parties

16. Corus submitted that the proposed transaction would provide Canadians with enhanced programming that responds to their needs and expectations. Corus further submitted that the transaction would ensure that the quality of the services would be maintained and that their programming would be offered on a variety of platforms and showcased throughout the world.
17. The Commission received several interventions from distributors, independent producers, creative groups and consumer advocacy groups.
18. Supporting interveners, including independent producers, film distributors, educational and arts training institutions and festival organizers, generally submitted that Corus could leverage its expertise and experience to produce and promote high-quality programming and offer it both to Canadian and international audiences. Further, some interveners noted that Corus's stronger presence in the French-language market would enhance diversity of voices and competition in that market.

19. Other interveners proposed safeguards and recommended modifications to ensure that the proposed transaction benefits the Canadian broadcasting system in the event that it was approved by the Commission. Some of the concerns raised related to the size of the Corus/Shaw vertically integrated entity, the incrementality and size of tangible benefits and the inclusion of the services in the Corus designated group.

Commission's analysis and decisions

20. After considering the complete public record of this proceeding, the Commission finds that the transaction as modified in this decision is in the public interest.
21. Given that Corus is already involved in providing programming for the TELETOON services, the Commission considers that the proposed transaction will result in a consolidation that will facilitate the creation, promotion and distribution of diverse, high-quality Canadian programming for Canadian and international audiences, particularly in the children's and animation programming sectors. It will also enhance diversity and foster greater competition in the French-language market.
22. The proposed tangible benefits package will positively impact Canadian content production and original programming by increasing opportunities for Canadian creators, artists and producers. In particular, Corus will contribute \$26.02 million over the next seven years, \$23.185 million of which will be directed to production, script and concept development and export initiatives, including \$5 million to French-language production.
23. In its analysis, the Commission focused on the following issues:
 - potential impacts on the Canadian broadcasting system; and
 - proposed benefits of the transaction for the Canadian broadcasting system.

Potential impacts on the Canadian broadcasting system

24. The Commission has considered the following issues stemming from the consolidation of ownership:
 - diversity of voices;
 - vertical integration and safeguards against anti-competitive behaviours;
 - terms of trade; and
 - the impact on independent, regional and official language minority community (OLMC) production.

Diversity of voices

25. In the diversity of voices policy (see Broadcasting Public Notice 2008-4), the Commission established that as a general rule it would not approve applications for a change in effective control of broadcasting undertakings that would result in the control by one person of a dominant position in the delivery of television services to Canadians, thereby affecting the diversity of programming available to television audiences.
26. Barring other policy concerns, transactions resulting in one person's controlling less than 35% of the total television audience share (measured separately, on a national basis, for both English- and French-language markets) would be processed expeditiously. However, the Commission would carefully examine transactions where one person controlled between 35% and 45% of the total television audience share.
27. The thresholds set out in the diversity of voices policy are intended to help guide the Commission's analysis of horizontal media consolidation when reviewing applications for changes in effective control. They are not determinative of the outcome of Commission deliberations.
28. In assessing the total audience share, in Broadcasting Decision 2012-574, the Commission considered that in the case of joint ventures, even in the absence of clear-cut control, it would be unreasonable to separate a 50% ownership position from the significant role in the operation and management of the services that such a party would possess and that it would include such viewing shares in reaching its determination. The Commission also determined that total television share is based on viewing to Canadian commercial television services. Finally, the Commission stated that it would take into account other indicators of market power, competition and ownership concentration given the size and nature of the proposed transaction.
29. In addition to these quantitative thresholds, the Commission set out several qualitative criteria in paragraph 89 of the diversity of voices policy to be used when assessing a proposed transaction.

Position of Corus

30. With respect to the French-language market, Corus stated that its application should present no concerns for the Commission since Corus's viewing share in this market would be 7.7% (and thus below the 35% threshold) if the Commission approved both the transaction involving the TELETOON services and that relating to Historia and Séries+. ⁴ Corus argued that it would remain a relatively small player even under these circumstances.

⁴ The Commission's decision relating to the transaction involving Historia and Séries+ is set out in Broadcasting Decision 2013-738, also published today.

31. With respect to the English-language market, given that this transaction involves the Corus/Shaw vertically integrated entity, Corus calculated the total viewing share for Corus and Shaw in the English-language television market to be 36.1% for the 2011-2012 broadcast year and estimated this percentage to be 37.1% for 2012-2013.
32. Corus noted that since it was proposing to acquire services in which it already had an economic interest, the transaction would not have an impact on its English-language audience share.

Interventions

33. Several parties expressed concerns regarding Corus's and Shaw's combined market share and argued that this level of market dominance should trigger a careful examination of the proposed transaction by the Commission.
34. The Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) acknowledged that Corus was not proposing to buy a new broadcasting asset outright, but simply acquiring the remaining stake in existing services. However, ACTRA noted that by wholly owning the TELETOON services, Corus would be able to operate them in a manner that would not have been possible when the undertakings were jointly managed with Astral Media inc. (Astral).
35. Some interveners expressed concern that the transaction could result in increased market dominance and a decrease in the diversity of original, independently produced programming, especially in the sectors of children's and animation programming where Corus already has a strong position. The Canadian Media Production Association (CMPA), with the support of the Association québécoise de la production médiatique (AQPM), Alliance Québec Animation, the Directors Guild of Canada (the Directors Guild) and On Screen Manitoba (On Screen), proposed a number of safeguards to protect independent production.

Commission's analysis and decision

36. The Commission notes that Corus and Shaw services have a combined audience share that is higher than 35% in the English-language market and that their combined audience share in the animation and children's programming sectors is significant. Approval of this transaction would not change Corus's audience shares as the Commission's calculation already encompasses Corus's current 50% interest in TELETOON Canada. Nevertheless, approval of this transaction would allow Corus to become the sole decision-maker with respect to the TELETOON services. The nature of the transaction therefore warranted the Commission's careful examination.
37. The Commission notes that a number of independent producers intervened in support of this application and that Corus made commitments to Canadian production through its proposed tangible benefits package, as well as its

commitments to expenditures on Canadian programming and programs of national interest (PNI).

38. The Commission has implemented a number of support mechanisms for independent and original production, as proposed by interveners, as well as safeguards against anti-competitive behaviours, to mitigate the potential negative impacts of the transaction. The Commission concludes that these mechanisms are sufficient to limit the potential for anti-competitive behaviour that may result from Corus's market power. The Commission is of the view that the children's programming and animation sectors do not exhibit particular characteristics that would warrant imposing additional safeguards specific to these sectors.

Vertical integration and safeguards against anti-competitive behaviours

39. In 2011, the Commission set out its VI framework.⁵ One of the key objectives of the VI framework is to ensure that Canadians continue to benefit from a wide choice of programming and are provided with more flexibility in choosing the services to which they can subscribe. The framework is also designed to limit potential abuses of market power and to ensure fair treatment for independent broadcasting distribution undertakings (BDUs) and programming services. In the VI framework, the Commission acknowledged the increased potential for preferential treatment but expressed the view that vertical integration can also lead to benefits, such as cost savings and increased efficiencies.
40. In Broadcasting Decision 2013-310, which approved BCE's acquisition of Astral, the Commission imposed conditions of approval requiring BCE to adhere to the VI framework. In the context of the current transaction, the Commission examined whether imposing these safeguards was equally appropriate for Corus.

Position of Corus

41. Corus submitted that the current regulatory framework, combined with some proposed safeguards to be applied to the undertakings being acquired, would be more than sufficient to address any concerns over anti-competitive behaviour and questioned whether additional regulatory requirements were in the public interest.
42. At the hearing, Corus agreed that all of the conditions of licence applicable to television programming undertakings set out in Appendix 2 to Broadcasting Decision 2013-310 (i.e. conditions 1-9 which structure negotiations and detail obligations in that regard and 11-13 relating to concluding terms of trade) be

⁵ The Commission set out its VI framework in September 2011 (see Broadcasting Regulatory Policy 2011-601 as amended by Broadcasting Regulatory Policy 2011-601-1) and implemented that framework through amendments to various regulations (Broadcasting Regulatory Policy 2012-407) and the exemption orders for digital media broadcasting undertakings (Broadcasting Order 2012-409) and terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers (Broadcasting Order 2012-408).

applied to all of its television programming services, regardless of whether or not they formed part of the proceeding.

43. However, Corus argued that it was not in a position to accept on Shaw's behalf that the conditions set out in Appendix 2 of Broadcasting Decision 2013-310 be applied to programming and distribution undertakings owned and operated by Shaw. Corus stated that it could not be held responsible for decisions made by Shaw and could not guarantee its compliance with these conditions.

Interventions

44. TELUS Communications Company (TELUS) was of the view that it would be inconsistent for the Commission not to subject Shaw and Corus to the same measures applied to BCE in Broadcasting Decision 2013-310, since the Corus/Shaw vertically integrated entity would have the same incentives and opportunities for anti-competitive behaviour as BCE. The Public Interest Advocacy Centre, the Consumers' Association of Canada, the Council of Senior Citizens' Organizations of British Columbia, the National Pensioners and Senior Citizens Federation and Option Consommateurs (collectively, the consumer groups) also supported the imposition of all the conditions of licence set out in Appendix 2 to Broadcasting Decision 2013-310.
45. The consumer groups and TELUS both argued that the Commission could apply safeguards on all of Corus's and Shaw's services using conditions of approval as in the case of Broadcasting Decision 2013-310.

Commission's analysis and decisions

46. The Commission generally considers that factors such as convergence, integration and scale may lead to an entity's becoming so large that it is provided with the opportunity and incentive to give itself or others an undue preference. This could impede the efficient delivery of programming at affordable rates and reasonable terms of carriage to the detriment of a competitive and dynamic marketplace in the Canadian broadcasting system. Ultimately, this could also have consequences on the availability and diversity of programming for Canadians.
47. In the present case, the Commission notes that Corus holds a significant suite of television services. Moreover, Corus is affiliated with Shaw, which is a vertically integrated entity with a significant presence in both the programming and distribution sectors. These circumstances place Corus in a uniquely advantageous position in the market.
48. Accordingly, the Commission deems it necessary to establish safeguards to limit the potential for anti-competitive behaviours by Corus. The Commission is of the view that conditions structuring negotiations and detailing obligations in that regard, as well as those relating to concluding terms of trade, are appropriate measures to ensure that the Canadian broadcasting system remains competitive.

49. With respect to the proposal that safeguards on anti-competitive behaviours be imposed on Shaw services, the Commission is of the view that it would not be appropriate to put Corus in a position whereby it must rely on Shaw to file certain applications with the Commission in order for Corus to comply with the Commission's conditions of approval. Despite the fact that Corus and Shaw are related entities, with ultimate control of both residing with JR Shaw, Shaw is managed separately by a distinct board of directors. The Commission will assess the appropriateness of imposing additional safeguards on Shaw's programming and distribution undertakings in future proceedings. The Commission also notes that vertically integrated entities such as Shaw are subject to the VI framework and that the undue preference provisions remain available should difficulties arise between parties.
50. Consequently, the Commission has set out in Appendix 2 to this decision **conditions of licence** which it has applied to the licences for the services being renewed in this decision (i.e. TELETOON/TÉLÉTOON, TELETOON Retro and TÉLÉTOON Rétro). Further, as a **condition of approval**, the Commission **directs** Corus to submit licence amendment applications by **30 January 2014** for all other television programming undertakings that will be operated by Corus to add the above-noted conditions of licence.

Terms of trade

51. The CMPA recommended that the Commission impose adherence to a terms of trade agreement as a condition of licence.
52. Under the group-based approach set out in Broadcasting Regulatory Policy 2010-167 and consistent with the above-noted safeguards relating to terms of trade, the Commission imposed a condition of licence requiring the Corus group to adhere to a terms of trade agreement with the CMPA. In light of this, the Commission considers it appropriate to impose such a **condition of licence** on all Corus services.
53. The Commission notes that TELETOON/TÉLÉTOON is a service with English- and French-language feeds and that a terms of trade agreement with the AQPM would represent a parallel requirement for the French-language feed of the service. Corus has committed to enter into such an agreement. Accordingly, the Commission is imposing a **condition of licence** requiring Corus to enter into a terms of trade agreement with the AQPM as soon as possible and in any event no later than one year from the date of this decision. The Commission also **directs** Corus to file with the Commission monthly detailed progress reports on the negotiations until the terms of trade agreement is executed. Finally, should parties conclude that an agreement will not be reached in the prescribed period, the Commission encourages them to seek mediation, either from the Commission or a third party.

54. In light of Corus's stated intention to work with French-language producers throughout Canada, in addition to requiring Corus by **condition of licence** to enter into negotiations with the Alliance des producteurs francophones du Canada (APFC), the Commission encourages the applicant to reach an agreement with the APFC as soon as possible.

Independent, regional and OLMC production

55. The Commission places great importance on independent, regional and OLMC production, not only in the context of this particular transaction, but in the overall attainment of the objectives of the Act. It has consequently put in place certain requirements and expectations regarding independent, regional and OLMC production. However, given the relationships between Corus, Nelvana and Shaw, the Commission considers that greater direction is required to determine who is considered an independent producer for the purposes of these requirements and expectations.
56. At the hearing, Corus committed to the following:
- Nelvana would be considered related to TELETOON Canada (and therefore to Shaw and Corus) and would not be eligible to access funds provided as tangible benefits to be directed to independent production as part of this transaction;⁶
 - it would agree to the imposition of a condition of licence requiring it to maintain the separation between the decision-making personnel dedicated to programming for TELETOON/TÉLÉTOON and its other services, in addition to maintaining its Montréal office dedicated to the French-language feed of TELETOON/TÉLÉTOON original programming; and
 - it would agree to the imposition of a condition of licence requiring that no more than 10% of the programming on YTV and TELETOON/TÉLÉTOON in each broadcast month would overlap.

Commission's analysis and decision

57. The diversity of voices policy defines an independent production company as a production company in which a television licensee owns or controls, directly or indirectly, less than 30% of the equity. The Commission confirms that as a corporation wholly owned by Corus, Nelvana will not be considered an independent producer. Shaw will also be ineligible. Further, the Commission has imposed the commitment by Corus relating to the separation of the decision-making personnel as a **condition of licence** on TELETOON/TÉLÉTOON.

⁶ Corus also confirmed that neither it nor Shaw would count Nelvana production towards the requirement to devote 75% of its expenditures on programs of national interest to independent producers.

58. The Commission notes that the 10% monthly limit on programming overlap between YTV and TELETOON/TÉLÉTOON is consistent with a condition of licence currently imposed on Treehouse TV in relation to YTV. Given that Treehouse TV devotes most of its programming to animation, there is a risk of overlap between the programming of Treehouse TV and TELETOON/TÉLÉTOON. The Commission has therefore adopted the limit on the level of programming overlap between YTV and TELETOON/TÉLÉTOON but has also modified this **condition of licence** such that it includes Treehouse TV.
59. Corus is currently subject to a condition of licence requiring that 50% of expenditures for the acquisition or commissioning of original first-run Canadian programming be set aside for non-related producers. The CMPA proposed that this requirement be raised to 75% and that Nelvana be considered a related producer for the purposes of this requirement.
60. The Commission finds it appropriate to impose a **condition of licence** requiring the licensee of TELETOON/TÉLÉTOON to devote 75% of its expenditures for original first-run Canadian programming to non-related producers. It will also continue to expect TELETOON/TÉLÉTOON to ensure that at least 75% of all original, first-run Canadian programming exhibited is acquired from non-related producers.
61. The Commission notes that the CMPA proposed that the Commission require TELETOON/TÉLÉTOON to broadcast a minimum of 90 hours of original Canadian programming each year and that the Union des artistes, the Société des auteurs de radio, télévision et cinéma and the Association des réalisateurs et réalisatrices du Québec (UDA/SARTEC/ARRQ) proposed a requirement to broadcast at least 26 half-hours of original French-language Canadian programming each broadcast year. The Commission has not imposed such requirements, as it is of the view that TELETOON/TÉLÉTOON's Canadian programming expenditure (CPE) and PNI obligations, coupled with Corus's commitments regarding on-screen tangible benefits, will ensure the creation of original Canadian programming in the next licence term. The Commission notes that these requirements and commitments are consistent with the Commission's regulatory focus on program creation rather than program exhibition, as contemplated in Broadcasting Regulatory Policy 2010-167.
62. The CMPA also recommended that the Commission require the filing of annual independent production reports for TELETOON/TÉLÉTOON. However, the Commission notes that the information requested by the CMPA can be incorporated into the reports on regional production and PNI that Corus is currently required to file. Given that TELETOON/TÉLÉTOON will be part of the Corus designated group, Corus will be required to include information relevant to the service in those reports.

63. Alliance Québec Animation submitted that TELETOON/TÉLÉTOON should be required to ensure regional representation in the acquisition of its original productions. The Commission notes that the submission did not provide details as to how Corus's expenditures should be distributed and considers that breaking down the service's CPE into regional spending would be burdensome for Corus. The Commission notes that Corus committed to working with regional producers following the transaction to commission original programs for TELETOON/TÉLÉTOON. In addition, as a designated group, Corus is required to file annual regional production reports, which will include information on TELETOON/TÉLÉTOON following the transaction. The Commission considers that the information included in the reports will put it in a better position to assess the need for a regional spending obligation at the next licence renewal. The Commission therefore concludes that it is not necessary to impose additional requirements relating to regional production.
64. As regards the concerns raised by a number of parties regarding OLMC production and reflection, the Commission notes Corus's intention to work with French- and English-language producers across Canada. In order to ensure proper monitoring on this issue, the Commission requires Corus to clearly set out specific information on OLMC production in its annual regional production report for TELETOON/TÉLÉTOON, as well as information on Corus's efforts to reach out to OLMC producers, especially French-language OLMC producers. The Commission also encourages Corus to continue its efforts to ensure that the programming aired by TELETOON/TÉLÉTOON reflects all Canada's regions.

Proposed benefits of the transaction for the Canadian broadcasting system

65. The Commission has considered the following issues:
- the tangible benefits package; and
 - the calculation of the value of the transaction.

Tangible benefits

66. As set out in Public Notice 1999-97, for transfers of ownership or control involving television programming undertakings, the Commission generally expects applicants to make clear and unequivocal commitments to provide tangible benefits. Specifically, for television programming undertakings, including conventional, pay and specialty undertakings, the Commission generally expects the proposed tangible benefits to represent 10% of the value of the transaction as determined by the Commission (see Public Notice 1999-97 and Broadcasting Public Notice 2007-53). Such benefits should be directed to the communities served and the broadcasting system as a whole. Further, in order to be accepted as a benefit, the proposed expenditure must be "incremental"—that is, directed to projects and initiatives that would not normally be undertaken or realized in the absence of the transaction—and should generally flow to third parties, such as independent

producers. In addition, the Commission's general approach provides that the majority (approximately 85%) of the benefits should result in on-screen programming, with the remainder allocated to social benefits.

67. Corus proposed a tangible benefits package amounting to \$24.9 million, representing 10% of the purchase price for the interest being acquired from Bell Media for the television undertakings (\$249 million). Details about the benefits package, as revised by the Commission below, can be found in Appendix 1 to this decision.

On-screen benefits

68. Corus proposed that 85% (\$21.165 million) of the benefits be dedicated to on-screen initiatives, including \$16.615 million to a self-administered fund. The remainder of the on-screen benefits would flow to funds administered by a third party, either the Canada Media Fund (CMF) or Telefilm Canada.
69. Corus indicated that 75% of the benefits directed to the production of programming would flow to independent producers and confirmed that no more than 10% would be allocated to online services or production. Further, no administration fees would be charged and all contributions would be incremental to the services' CPE obligations.
70. The Commission is of the view that the proposed self-administered fund will result in the production and development of new programs for television and is consistent with Commission policies. Each year \$125,000 of this fund would be allocated to the Telefilm Canadian Talent Fund (for a total of \$875,000 over seven years) to support emerging and established Canadian filmmakers in the animation genre. Corus proposed to allocate \$5 million of this fund to French-language programs. The Commission considers this proposal acceptable, given that it reflects the historical proportions of revenues and spending between the English- and French-language components of TELETOON/TÉLÉTOON and would be incremental to Corus's CPE obligations.
71. However, given that Corus owns Nelvana, a related producer, and consistent with the benefits policy, which requires that benefits should generally flow to third parties, such as independent producers, the Commission **directs** Corus to allocate 100% of the funds to independent producers (rather than 75% as proposed by Corus) and to ensure that the programs produced meet the definition of an "original Canadian program."⁷

⁷ An "original Canadian program" is defined as a Canadian program that, at the time of its broadcast by the licensee, has not been previously broadcast by the licensee or by any other licensee, or if the licensee contributed to the program's pre-production financing, a Canadian program that has only been previously broadcast by another licensee that also contributed to its pre-production financing.

72. Corus proposed to allocate 5% of the tangible benefits intended for the French-language market to OLMCs. The APFC and On Screen requested that 10% of the tangible benefits be reserved for OLMC production. Given the importance of OLMC reflection, the Commission **directs** Corus to devote 10% of the funds dedicated to the French-language market to OLMC production.
73. Moreover, the Commission reiterates that benefits should be used to create and acquire the best possible Canadian programming to be made available on whatever services Canadians choose. As such, the benefits resulting from this transaction should be made available to a wide range of producers for broadcast on a variety of services so that they do not exclusively benefit the TELETOON services.
74. Further, to monitor these requirements, the Commission requires Corus to include the following information in its annual tangible benefits report:
- the titles of the programs funded, the producer and whether he or she comes from an OLMC;
 - the funds allocated to each title;
 - the service on which the programs are broadcast; and
 - the allocation mechanisms employed to ensure that the funds were allocated to a variety of producers and services.
75. The Commission also accepts Corus's proposal to allocate part of the on-screen benefits to the CMF, the Telefilm Canadian Talent Fund or both for the proposed "Script and Concept Development" initiative. Accordingly, the Commission **directs** Corus to file by **30 January 2014** an agreement with the CMF or Telefilm confirming that they will administer the funds, that the funds will be used for script and concept development and that they will be made available to both English- and French-language parties in proportion in each linguistic market.
76. The Commission is of the view that the "Export Fund" could result in the production of new Canadian programs. However, in order to benefit Canadian audiences, the programs produced should also be broadcast on a Canadian service. Accordingly, to ensure the fund's eligibility as a tangible benefit, the Commission **directs** Corus to file with the Commission an agreement with the CMF or Telefilm for the administration of this fund by **30 January 2014** that meets the following requirements:
- the agreement includes eligibility criteria that will ensure that the fund results in the production of new Canadian programs and that the programs produced are broadcast on a Canadian service; and
 - the agreement provides that the fund will be made available to both English- and French-language parties in proportion in each linguistic market, consistent with section 3(1)(d)(iii) of the Act.

77. Should Corus be unable to come to such an agreement, the Commission **directs** Corus to redirect the funds to its proposed “Programming” and/or “Script and Concept Development” initiatives.

Off-screen benefits

78. The Commission considers that the contributions to the various proposed festivals would be of benefit to the broadcasting system and the animation community and that as such they are eligible tangible benefits. However, to be truly incremental, the contributions should be over and above Corus’s historical expenditures on these festivals, including ticket purchases and advertisement, as well as promotion at and leading up to the events.
79. Contributions provide a greater benefit if the funds are focused on activities such as script development, pitching events and professional development as opposed to festival administration. Festivals can also provide opportunities to meet with OLMCs.
80. Accordingly, to ensure that these expenditures are incremental, provide the greatest benefit to the Canadian broadcasting system and help meet the objectives of the Act, the Commission **directs** Corus to include the following in its annual tangible benefits report:
- information on each year’s (and previous years’) ticket purchases, advertising and promotion expenditures for each festival, as distinct from the tangible benefit contributions; and
 - information on the use of these funds, including activities such as script development, pitching events, professional development and opportunities to meet with OLMCs.
81. In general, Corus’s proposed contributions to research and training institutions would be of benefit to the broadcasting system and are eligible as tangible benefits. However, Corus proposed that payment to a number of initiatives be deferred until the existing benefits from previous transactions expire. The Commission is of the view that Corus should start making payments immediately and leave the timing for the use of the funds to the recipients’ discretion. In particular, the Commission **directs** Corus to begin making payment to the proposed initiatives relating to YMCA Media, University of Waterloo-Stratford and City Life Film Project during the current broadcast year.
82. In addition, with respect to the proposed contributions for scholarships to institutions operating or offering programs in broadcasting or broadcasting-related fields, the Commission **directs** Corus to include the following in its annual tangible benefits report:

- information on the use of the funds, such as the number of scholarships awarded and the amount of each scholarship; and
 - proof that contributions to YMCA Media, University of Waterloo-Stratford and City Life Film Project are incremental to existing benefits.
83. The Commission further **directs** Corus to include the following in its annual tangible benefits report:
- information on the use of the funds allocated to the Canadian Communications Foundation, such as the research projects that received funding; and
 - information on the number of public service announcements produced, their producers and the dates and times of broadcast as a result of the funding allocated to Concerned Children's Advertisers.
84. As regards the proposal to allocate part of the benefits to the Corus Inner City Childhood Obesity Research Initiative, Corus stated at the hearing that this initiative represented a form of script and concept development, but did not provide details on the results to be expected and how the initiative would benefit the community served, the broadcasting system or both, such as a set number of new concepts per year or the development and production of a new program. Accordingly, the Commission **directs** Corus to reallocate the amount for this initiative (\$900,000) to an initiative that benefits both linguistic markets and to do so in proportion to its historical CPE in each linguistic market.

Value of the transaction

85. As set out in Broadcasting Public Notice 2008-57, the Commission determines the value of the transaction for the purpose of calculating the tangible benefits as of the date of the transaction. The Commission determines the value of the transaction based on the economic interest being acquired and adds elements such as assumed debt and leases to this value in the same proportion.
86. Corus previously acquired a 50% interest in TELETOON Canada through a series of transactions that did not give rise to a requirement to pay tangible benefits. UDA/SARTEC/ARRQ claimed that Corus's acquisition of the remaining 50% of TELETOON Canada's interest should be considered as the last step of a multi-step transaction and that therefore Corus should pay tangible benefits on 100% of the value of TELETOON Canada. However, following a review of the transactions that enabled the acquisition of the previous 50% ownership interest, the Commission concludes that they are unrelated to this transaction and do not constitute a multi-step transaction.
87. Under the current Share Purchase Agreement, Corus would purchase the remaining shares of TELETOON Canada for \$249 million.

88. Consistent with its practice and based on the interest in TELETOON Canada being acquired by Corus from Bell Media, the Commission has added to this proposed value of the transaction 50% of the value of the leases being assumed, which amount to \$3.2 million. Also, consistent with past determinations, the Commission has added the value of the cash on hand at the date of the transaction (\$19.3 million) weighted by the 50% economic interest being acquired.
89. The revised value of the transaction for the purpose of determining the tangible benefits consequently rises to \$260,238,640, as follows:

Value of the transaction for TELETOON Canada

Purchase price	\$249,000,000
Cash (50% of \$19.3 million)	\$9,640,000
<i>Adjusted purchase price</i>	\$258,640,000
Additions:	
Assumed leases (50% of \$3.2 million)	\$1,598,640
Total	\$260,238,640

90. Given that the Commission has revised the value of the transaction to \$260,238,640, the value of the tangible benefits package increases to \$26.02 million. The Commission **directs** Corus to allocate the additional funds (\$1.12 million) to its on-screen “Programming” and/or “Script and Concept Development” initiatives in proportion to its historical CPE in each linguistic market.

Inclusion of TELETOON/TÉLÉTOON and TELETOON Retro in the Corus designated group

91. The Commission’s group-based licensing framework for private television services is set out in Broadcasting Regulatory Policy 2010-167. The policy states that the framework will generally apply to private English-language ownership groups that generate more than \$100 million in annual revenues from conventional television stations and own at least one English-language specialty programming service (designated groups).
92. In Broadcasting Decisions 2011-445 and 2011-446, the Commission granted Shaw’s and Corus’s requests to each be considered a designated group and renewed the licences for their television services under the group-based licensing framework.
93. In the present application, Corus proposed to apply the group-based approach to the English- and French-language Category A service TELETOON/TÉLÉTOON and the English-language Category B service TELETOON Retro by including these services in the designated Corus group. As a specialty Category A service, TELETOON/TÉLÉTOON is eligible to be included in the Commission’s

group-based licensing regime, consistent with Broadcasting Regulatory Policy 2010-167 and Broadcasting Decision 2011-441. As a Category B service with more than one million subscribers, TELETOON Retro is also eligible to be included in the Corus designated group.

94. Interveners that opposed the services' inclusion in the Corus group, such as the CMPA, with the support of the AQPM, Alliance Québec Animation, the Directors Guild and On Screen, did not present evidence to illustrate any negative impacts of the group-based approach that would justify excluding the services from the Corus group. The Commission is of the view that the safeguards imposed in this decision will mitigate any impact of the group-based approach on original and independent production as it relates to the TELETOON services.
95. UDA/SARTEC/ARRQ suggested that TELETOON/TÉLÉTOON's licence be split in two to ensure a minimum level of French-language original production going forward. The Commission considers that operating two specialty feeds under one licence has allowed Corus to offer a high-quality national English- and French-language service, which contributes to the achievement of the objectives in the Act relating to the reflection of the linguistic duality of Canadian society and offering a range of broadcasting services in English and French. The Commission also notes Corus's statement that a change in licensing might have a negative impact on its operations and ability to meet the objectives of the Act. The Commission is not convinced that splitting TELETOON/TÉLÉTOON's licence in two would result in benefits for Canadians.
96. The Commission **approves** Corus's request to include TELETOON/TÉLÉTOON and TELETOON Retro in the Corus designated group.
97. In Broadcasting Decision 2011-441, the Commission established a minimum group CPE level of 30% for the Corus designated group. This group CPE level is implemented through conditions of licence imposed on the various qualifying conventional television stations and specialty services.⁸ Furthermore, all qualifying specialty services controlled by a designated group continue to have individual CPE requirements imposed by condition of licence. Corus proposed a CPE requirement of 31% for TELETOON/TÉLÉTOON and 16% for TELETOON Retro, which it argued would be consistent with the harmonized CPE requirements of the other Category A and B specialty services currently in the Corus designated group. Corus also proposed a PNI requirement of 26% for TELETOON/TÉLÉTOON and 4% for TELETOON Retro based on their average PNI expenditures over the previous three broadcast years.
98. The CPE level for TELETOON/TÉLÉTOON under its current licence is 47%. In Broadcasting Regulatory Policy 2010-167, the Commission indicated that it would consider, at the time of licence renewal, requests to adjust required CPE levels in

⁸ See Broadcasting Decision 2011-446.

light of its decision to eliminate CMF licence-fee top-ups as an eligible CPE. Consequently, the Commission has imposed a **condition of licence** requiring a CPE of 34%, which represents the service's current CPE requirement minus the average CMF licence-fee top-ups it received over the last three years of its licence term.

99. To ensure an appropriate level of programming expenditures in the French-language market following TELETOON/TÉLÉTOON's inclusion in the Corus group, the Commission considers it appropriate to impose a requirement by condition of licence that reflects the service's historical expenditures on French-language programming. Further, such expenditures may not be counted towards meeting the obligations of any other service in the Corus group.
100. Approximately 26% of TELETOON/TÉLÉTOON's annual CPE flows to the French-language market. Using this proportion, the CPE of TELETOON/TÉLÉTOON in the French-language market would represent approximately 9% of its total revenues. The Commission has imposed this level by **condition of licence**. The Commission expects that these funds be spent predominantly on original French-language production to reflect the service's contribution to linguistic duality. Further, to monitor implementation, the Commission requires Corus to report on this requirement in its annual return and to detail its spending and production in the French-language market in its annual PNI reports.
101. In addition, consistent with Broadcasting Decision 2011-446, the Commission **directs** TELETOON/TÉLÉTOON to calculate and report its CPE exclusively under the accrual method, which uses amortization. The related **condition of licence** set out in Appendix 3 provides the service with three years to align its expenditures with the accrual method.
102. As a Category B service, TELETOON Retro does not currently have a CPE requirement. Corus's proposed CPE requirement of 16% is above the service's historical spend and consistent with the harmonized CPE requirement of the other Category B services currently in the Corus designated group. Accordingly, the Commission has imposed a **condition of licence** requiring a CPE level of 16%.
103. Corus proposed to devote 26% and 4% of the revenues of TELETOON/TÉLÉTOON and TELETOON Retro respectively to PNI expenditures. This level is consistent with the Commission's practice, which is based on a service's historical expenditures during the last three broadcast years. The Commission has therefore imposed these requirements on the services by **condition of licence**. As a consequence, the Corus designated group's PNI requirement has effectively increased from 9% to 12%.

Exclusion of TÉLÉTOON Rétro and Cartoon Network from the Corus designated group

104. Corus stated its intention to operate the French-language Category B service TÉLÉTOON Rétro and the English-language Category B service Cartoon Network

independently from the Corus designated group. Specifically, Corus stated that it wished to operate TÉLÉTOON Rétro under the proposed terms and conditions contained in the licence renewal application. Given that Cartoon Network is operating under its first licence term and is not up for licence renewal until 2018, Corus did not propose any amendments to its conditions of licence.

105. Interveners generally supported Corus's proposal to operate the above-noted services independently from the Corus designated group.
106. The Commission notes that the exclusion of TÉLÉTOON Rétro from the Corus group is consistent with Corus's proposal to exclude the French-language specialty Category A services Historia and Séries+ from its designated group, as discussed in Broadcasting Decision 2013-738, also issued today. The Commission is of the view that this would have little impact on the programming broadcast given that TÉLÉTOON Rétro's revenues would only represent a small portion of the Corus group's revenues.
107. For its part, a newly launched service, Cartoon Network reported no subscribers in 2012. Generally speaking, Category B services must have a minimum of one million subscribers to be included within a designated group.
108. Based on the above, the Commission **approves** Corus's request to operate the French-language Category B service TÉLÉTOON Rétro and the English-language Category B service Cartoon Network independently from the Corus group.

Issues related to licence renewal

109. The licences for TELETOON/TÉLÉTOON, TELETOON Retro and TÉLÉTOON Rétro expire 31 March 2014.
110. Corus requested that the licences for TELETOON/TÉLÉTOON and TELETOON Retro be renewed until 31 August 2016 so that the licence expiry date coincides with that of the services in the Corus designated group.
111. Corus further requested that the licence for TÉLÉTOON Rétro be renewed until 31 August 2017 so that the licence expiry date coincides with that of the licences for Historia and Séries+ should the Commission approve the transaction relating to those services.

Apparent non-compliances for TELETOON/TÉLÉTOON and TÉLÉTOON Rétro

112. In Broadcasting Notice of Consultation 2013-448, the Commission noted that the licensee of TELETOON/TÉLÉTOON may have failed to comply with its condition of licence regarding the broadcast of Canadian content for the 2010-2011 and the 2011-2012 broadcast years. The licensee may also have failed to comply with its condition of licence limiting the broadcast of programs from categories 12 Interstitials, 13 Public service announcements and 14 Infomercials, promotional and corporate videos for the 2011-2012 broadcast year. In addition, the licensee

may have failed to comply in the 2011-2012 broadcast year with the condition of licence applicable to TÉLÉTOON Rétro regarding the broadcast of at least 35% Canadian content during the evening broadcast period (6 p.m. to midnight).

113. The licensee stated that the discrepancies in the broadcast of Canadian content on TELETOON/TÉLÉTOON were due to the broadcast of Canadian programs still awaiting certification. The licensee added that it had updated its traffic and broadcast systems to reflect the Canadian programs that had received certification since 2 August 2012 and was providing Commission staff with a list of Canadian titles still awaiting certification on a monthly basis so that the Commission could be fully aware of the source of any discrepancies in the broadcast of Canadian content.
114. As of 1 November 2012, the licensee's traffic and broadcast systems indicate that, for the 2010-2011 broadcast year, Canadian content levels in the peak viewing period (4 p.m. to 10 p.m.) amounted to 63.1% for TELETOON/TÉLÉTOON's French-language feed and 60.1% for its English-language feed and thus exceeded its 60% requirement. For the 2011-2012 broadcast year, the licensee specified that the Canadian content levels on the English-language feed were at 64.8% for the broadcast day and 66.8% for the peak viewing period, while on the French-language feed, Canadian content levels were at 64.8% during the peak viewing period. The licensee further submitted that TÉLÉTOON Rétro devoted 38.3% of the evening broadcast period to Canadian content in the 2011-2012 broadcast year.
115. Regarding the broadcast of programs from categories 12, 13 and 14, which is limited by condition of licence to 5% of all programs aired during the broadcast year, the licensee reported levels of 4.8% for the English-language feed and 5.6% for the French-language feed of TELETOON/TÉLÉTOON. It added that due to the unique durations of some animation programs and movies, as well as the significant number of commercial-free blocks, interstitial programs are used to help complete the programming schedule.
116. With respect to TELETOON/TÉLÉTOON, the Commission confirms that the program logs are missing a large number of production certification numbers. Having reviewed the programs in question, the Commission is satisfied with the licensee's explanation of the apparent non-compliance. Nevertheless, in light of the large number of errors in TELETOON/TÉLÉTOON's logs due to missing certification numbers, the Commission reminds the licensee of the importance of correcting errors as they arise to ensure ongoing compliance, as the *Specialty Services Regulations, 1990* require licensees to ensure that their logs are at all times kept in an acceptable form, which means that they must be accurate, complete and corrected immediately when errors arise.
117. With respect to TÉLÉTOON Rétro, although the licensee stated at the hearing that it was also awaiting production certification numbers, the Commission's review of the service's program logs indicates that the non-compliance is not related to missing production numbers. As such, the Commission is of the view that the

licensee's explanation does not resolve the issue of non-compliance for TÉLÉTOON Rétro.

118. In light of the above, the Commission finds the licensee in non-compliance with TÉLÉTOON Rétro's condition of licence regarding the broadcast of Canadian content during the evening broadcast period for the 2011-2012 broadcast year. The Commission considers that a short-term renewal for the service would be appropriate. The Commission notes that Corus has requested that the licence for this service be renewed for a four-year term so that the licence expiry date coincides with that of the licences for Historia and Séries+. Accordingly, the licence for TÉLÉTOON Rétro will be renewed until 31 August 2017.
119. In addition, the Commission **directs** Corus to file a report by **30 January 2014** demonstrating how it has come into compliance with the above-noted condition of licence for TÉLÉTOON Rétro.

Licence amendments

120. TELETOON Canada requested licence amendments to:
 - increase the limit on program categories 12 Interstitials, 13 Public service announcements and 14 Infomercials, promotional and corporate videos for TELETOON/TÉLÉTOON from 5% to 10% of the broadcast month;
 - eliminate the requirement for TELETOON/TÉLÉTOON to devote at least 1 hour between 8 p.m. and midnight to Canadian programs; and
 - permit the broadcast on TELETOON Retro and TÉLÉTOON Rétro of Canadian programs with a 5-year rather than the current 10-year copyright.
121. With respect to increased limits for categories 12, 13 and 14 programming for TELETOON/TÉLÉTOON, the licensee explained that given that the length of animation programs was very varied, it relied on short programs to fill the time between shows scheduled on the hour or half-hour. It added that it also relied heavily on short programs to fill in the commercial airtime during children's commercial-free programming blocks. It therefore argued for greater flexibility in scheduling short animation programs to create a compelling programming schedule.
122. With respect to the elimination of the one hour of Canadian programs between 8 p.m. and midnight for TELETOON/TÉLÉTOON, the licensee stated that it was seeking the same scheduling flexibility granted to specialty broadcasters under the group-based approach. Specifically, it submitted that no other specialty Category A or B service was required to broadcast Canadian programming at specific times in addition to being required to devote an overall percentage of its schedule to Canadian content (the licensee is required by condition of licence to broadcast 60% Canadian content over the broadcast day and during the peak viewing period).

123. Finally, with respect to the broadcast of more recent Canadian animation programming on TELETOON Retro and TÉLÉTOON Rétro, the licensee explained that the current 10-year copyright was extremely restrictive. Specifically, it stated that it was facing a shortage of inventory for classic animated movies and programs, in particular for Canadian animated programs. It further noted that the competition for classic animation had increased with the launch of Yoopa, Disney Junior and Disney XD. Finally, it argued that TELETOON Retro and TÉLÉTOON Rétro would remain devoted to classic animation and animation-related programs, consistent with their nature of service.
124. Corus also confirmed that it would adhere to the standard conditions of licence for specialty Category A services for TELETOON/TÉLÉTOON and to the standard conditions of licence for specialty Category B services for TELETOON Retro and TÉLÉTOON Rétro.⁹

Commission's analysis and decisions

125. In Broadcasting Public Notice 2008-100, the Commission stated that it was prepared to eliminate program limitations where the narrative description is sufficient to ensure that the service will not be directly competitive with any other Category A service and will remain true to its genre. Given that TELETOON/TÉLÉTOON is devoted to animation and must draw 90% of its programming from categories 7(d) Theatrical feature films aired on TV and 7(e) Animated television programs and films, the Commission is of the view that the 5% limit on categories 12, 13 and 14 could be increased to 10% without changing the nature of the service.
126. The licensee originally proposed to remove the limit on these types of programs, but amended its request to address interveners' concerns that the amendment would result in a reduction in the animation programming shown on the service. The licensee also stated that very few infomercials were shown on the service and that it had no plans to broadcast more of such programs.
127. The Commission therefore **approves** the request to increase the limit on program categories 12, 13 and 14 for TELETOON/TÉLÉTOON from 5% to 10% of the broadcast month. The Commission expects that the number of infomercials broadcast will not increase over the licence term.
128. The Commission notes that eliminating the requirement to devote at least 1 hour between 8 p.m. and midnight to Canadian programs could have a significant negative impact on the broadcast of Canadian programs. The service could devote its schedule entirely to non-Canadian programs beginning at 8 p.m. on the English-language feed despite the requirement to devote 60% of the peak viewing period (4 p.m. to 10 p.m.) to Canadian programs. This could occur even earlier on

⁹ See Broadcasting Regulatory Policies 2011-443 and 2010-786-1.

the French-language feed, as dubbing a Canadian program in Canada provides an additional time credit. The Commission is of the view that maintaining the condition of licence would ensure that a percentage of the programming broadcast during that time period would be Canadian.

129. The Commission therefore **denies** the request to eliminate the requirement for TELETOON/TÉLÉTOON to devote at least 1 hour between 8 p.m. and midnight to Canadian programs.
130. As regards the request to permit the broadcast on TELETOON Retro and TÉLÉTOON Rétro of Canadian programs with a 5-year rather than a 10-year copyright, the licensee originally requested this decrease for all programs broadcast on the services. The licensee amended its request to address interveners' concerns that the change would make the service directly competitive with Category A services.
131. Based on the above, the Commission considers that the proposed amendment would not alter the nature of service of TELETOON Retro and TÉLÉTOON Rétro or make these services directly competitive with Category A services. The revised amendment will also provide an earlier second window for successful Canadian programs originally broadcast on TELETOON/TÉLÉTOON. Accordingly, the Commission **approves** the request to permit the broadcast on TELETOON Retro and TÉLÉTOON Rétro of Canadian programs with a 5-year copyright.

Other issues

132. The Commission **directs** Corus to file an executed copy of the amalgamation documents by **30 January 2014**.
133. The Commission requires Corus to file the executed version of all draft documents filed as part of the application relating to this transaction by **30 January 2014**.

Conclusion

134. In light of all of the above, the Commission **approves**, subject to the modifications and **condition of approval** discussed in this decision, the application by 8324441 Canada Inc. on behalf of TELETOON Canada Inc. for authority to effect a transfer of ownership and control of TELETOON Canada to 8324441 Canada Inc. so that control of the undertakings is exercised by Corus Entertainment Inc. The Commission concludes that the transaction as modified in this decision is in the public interest and advances the objectives set out for the Canadian broadcasting system in the Act.
135. The Commission also **renews** the broadcasting licences for the national, English- and French-language specialty Category A service known as TELETOON/TÉLÉTOON and the national English-language specialty Category B service known as TELETOON Retro from 1 April 2014 to 31 August 2016, as well

as the national French-language specialty Category B service known as TÉLÉTOON Rétro from 1 April 2014 to 31 August 2017. Until 1 April 2014, these services will continue to operate under the terms and conditions of their current licences. The **conditions of licence** for each service that will apply in the licence term beginning 1 April 2014 are set out in the appropriate appendices to this decision.

Secretary General

Related documents

- *Administrative renewals*, Broadcasting Decision CRTC 2013-457, 29 August 2013
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2013-448, 28 August 2013
- *Astral broadcasting undertakings – Change of effective control*, Broadcasting Decision CRTC 2013-310, 27 June 2013
- *Astral broadcasting undertakings – Change of effective control*, Broadcasting Decision CRTC 2012-574, 18 October 2012
- *Amendments to the Exemption order for new media broadcasting undertakings (now known as the Exemption order for digital media broadcasting undertakings)*, Broadcasting Order CRTC 2012-409, 26 July 2012
- *Amended exemption order for terrestrial broadcasting distribution undertakings serving fewer than 20,000 subscribers – Implementation of the regulatory framework relating to vertical integration and other amendments*, Broadcasting Order CRTC 2012-408, 26 July 2012
- *Amendments to various regulations – Implementation of the regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2012-407, 26 July 2012
- *Regulatory framework relating to vertical integration*, Broadcasting Regulatory Policy CRTC 2011-601, 21 September 2011, as amended by Broadcasting Regulatory Policy CRTC 2011-601-1, 14 October 2011
- *Corus Entertainment Inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2011-446, 27 July 2011
- *Shaw Media Inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2011-445, 27 July 2011

- *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011
- *Group-based licence renewals for English-language television groups – Introductory decision*, Broadcasting Decision CRTC 2011-441, 27 July 2011
- *Administrative renewals*, Broadcasting Decision CRTC 2011-417, 12 July 2011
- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – corrected Appendices 1 and 2*, Broadcasting Regulatory Policy 2010-786-1, 18 July 2011
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *A guide to the CRTC application process for change in effective control and certain transfers of shares of broadcasting undertakings as well as for the acquisition of assets of broadcasting undertakings*, Broadcasting Information Bulletin CRTC 2008-8-1, 23 December 2010
- *Revised guidelines for the application of the Common Ownership Policy for Radio*, Broadcasting Information Bulletin CRTC 2010-341, 4 June 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Allocation of the transaction value in changes in the effective control of broadcasting undertakings – Information bulletin*, Broadcasting Public Notice CRTC 2008-57, 30 June 2008
- *Diversity of voices – Regulatory Policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007
- *Building on success – A policy framework for Canadian television*, Public Notice CRTC 1999-97, 11 June 1999

**This decision is to be appended to each licence.*

University of Waterloo-Stratford	0.013	0.013	0.013	0.013	0.013	0.013	0.013	0.09
YMCA Media	0.018	0.018	0.018	0.018	0.018	0.018	0.018	0.125
City Life Film Project	0.004	0.004	0.004	0.004	0.004	0.004	0.004	0.025
Concerned Children's Advertisers	0.029	0.029	0.029	0.029	0.029	0.029	0.029	0.2
Canadian Communications Foundation	0.05	0.05	0.014	0.014	0.014	0.014	0.014	0.17
Total	3.757	3.747	3.711	3.711	3.711	3.711	3.673	26.02

Appendix 2 to Broadcasting Decision CRTC 2013-737

Common conditions of licence and encouragement applicable to all of the services being renewed in this decision and to be requested by Corus, as a condition of approval, as amendments to the licences for its remaining television programming undertakings

Conditions of licence

1. The licensee shall not:
 - (a) require an unreasonable rate (e.g., not based on fair market value);
 - (b) require a party that it is contracting to accept terms or conditions for the distribution of programming on a traditional or ancillary platform that are commercially unreasonable;
 - (c) require an excessive activation fee or minimum subscription guarantee; or
 - (d) impose, on an independent party, a most favoured nation clause or any other condition that imposes obligations on that independent party by virtue of a vertically integrated entity or an affiliate thereof entering into an agreement with any vertically integrated entity or any affiliate thereof, including its own.
2. When negotiating a wholesale rate for a programming service based on fair market value, the licensee shall take into consideration the following factors:
 - (a) historical rates;
 - (b) penetration levels and volume discounts;
 - (c) the packaging of the service;
 - (d) rates paid by unaffiliated broadcasting distribution undertakings for the programming service;
 - (e) rates paid for programming services of similar value to consumers;
 - (f) the number of subscribers that subscribe to a package in part or in whole due to the inclusion of the programming service in that package;
 - (g) the retail rate charged for the service on a stand-alone basis; and
 - (h) the retail rate for any packages in which the service is included.
3. The licensee shall file with the Commission all affiliation agreements to which it is a party with a television programming undertaking or broadcasting distribution undertaking within five days following the execution of the agreement by the parties.

4. If the licensee has not renewed an affiliation agreement to which it is a party with a licensed or exempt Canadian television programming undertaking or Canadian broadcasting distribution undertaking within the 120 days preceding the expiry date of the agreement, and if the other contracting party has confirmed its intention to renew the agreement, the licensee shall refer the matter to the Commission for dispute resolution under sections 12 to 15 of the *Broadcasting Distribution Regulations*.
5. The licensee shall not:
 - (a) require minimum penetration or revenue levels that force distribution of a service on the basic tier or in a package that is inconsistent with the service's theme or price point;
 - (b) refuse to make programming services available on a stand-alone basis (i.e., requiring the acquisition of a program or service in order to obtain another program or service); or
 - (c) impose terms that prevent an unrelated distributor from providing a differentiated offer to consumers.
6. The licensee shall not refuse to make available or condition the availability of or carriage terms for any of its licensed programming services to any broadcast distribution undertaking (BDU) on whether that BDU agrees to carry any other separately licensed programming service, provided that this condition does not prevent or limit the right or ability of the licensee to offer BDUs multiservice or other discounts, promotions, rebates or similar programs.
7. The licensee shall not include or enforce any provision in or in connection with an affiliation agreement that is designed to prevent or is designed to create incentives that would effectively prevent another programming undertaking or broadcasting distribution undertaking from launching or distributing another licensed programming service.
8. The licensee shall negotiate with broadcasting distribution undertakings (BDUs) for non-linear multiplatform rights to the content broadcast on the licensee's programming service at the same time as linear rights for its programming service and provide those rights to BDUs on a timely basis and on commercially reasonable terms. For certainty, nothing in this condition of licence shall prevent or otherwise restrict the licensee from requesting compensation in exchange for making such non-linear rights available to BDUs.
9. The licensee shall provide a minimum of 90 days written notice of the impending launch of a new programming service to all broadcasting distribution undertakings. Such notice will be accompanied by an offer which sets out the general terms of carriage of the programming service to be launched.

10. The licensee shall adhere to a terms of trade agreement with the Canadian Media Production Association for English-language services.
11. For French-language services, the licensee shall enter into a terms of trade agreement with the Association québécoise de la production médiatique as soon as possible and in any event no later than 20 December 2014. Until the terms of trade agreement is concluded, the licensee must file with the Commission monthly detailed progress reports on the negotiations.
12. The licensee shall enter into good faith terms of trade negotiations with the Alliance des producteurs francophones du Canada and shall report regularly to the Commission on its progress in this regard.

Encouragement

The Commission encourages the licensee to reach an agreement with the Alliance des producteurs francophones du Canada as soon as possible.

Appendix 3 to Broadcasting Decision CRTC 2013-737

Additional conditions of licence, expectations and encouragement for the national, English- and French-language specialty Category A service known as TELETOON/TÉLÉTOON

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for specialty Category A services set out in *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011.
2. As regards the nature of service:
 - (a) The licensee shall provide a national specialty television service devoted to animation and animation-related programs, with both English- and French-language feeds.
 - (b) The licensee may draw programming from all program categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
 - (c) The licensee shall devote no more than 10% of the broadcast month to programs from categories 12 Interstitials, 13 Public service announcements and 14 Infomercials, promotional and corporate videos.
 - (d) In each broadcast year, the licensee shall devote at least 90% of all programs broadcast to animated programming drawn from categories 7(d) Theatrical feature films aired on TV and 7(e) Animated television programs and films.
 - (e) The licensee shall ensure that all programming it broadcasts consists exclusively of animation and animation-related programming, with the exception of programming drawn from categories 12, 13 and 14.
3.
 - (a) The licensee shall devote to the broadcast of Canadian programs at least 60% of the broadcast day and at least 60% of the peak viewing period.
 - (b) In each broadcast day, the licensee shall devote at least one hour between 8 p.m. and midnight to the broadcast of Canadian programs.
 - (c) The licensee shall schedule its Canadian programs reasonably throughout the broadcast day.

4. Except as provided for in conditions 5 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming 34% of the previous year's gross revenues of the undertaking.
5. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more pay television services, specialty services or conventional television stations from the "Corus group" in the same broadcast year towards fulfilling the requirement in condition 4 as long as these expenditures are not used by those pay television services, specialty services or conventional television stations towards fulfilling their own Canadian programming expenditure requirement.
6. Except as provided for in conditions 7, 8 and 9 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010 (Broadcasting Regulatory Policy 2010-167), the licensee shall in each broadcast year devote 26% of the previous year's gross revenues of the undertaking to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of Broadcasting Regulatory Policy 2010-167.
7. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more pay television services, specialty services or conventional television stations from the "Corus group" in the same broadcast year towards fulfilling the requirement in condition 6 as long as these expenditures are not used by those pay television services, specialty services or conventional television stations towards fulfilling their own programs of national interest requirements.
8. At least 75% of the expenditures in condition 6 must be made to an independent production company.
9. (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions 4 and 6 respectively; 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.

(b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure as set out in conditions 4 and 6, the licensee may deduct that amount as long as it does not exceed 5% of the minimum required expenditure in that year from the minimum required expenditure for the following year of the licence term.

(c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming and programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions 4 and 6.

10. "Specialty services" in conditions 5 and 7 excludes mainstream sports and news services and specialty Category B services with less than 1 million subscribers.
11. As part of its fulfilment of condition of licence 4, the licensee shall in each broadcast year devote to the acquisition of or investment in French-language Canadian programming at least 9% of the previous year's gross revenues of the undertaking. Further, these expenditures may not be counted towards meeting the obligations of any other service in the Corus group.
12. In each broadcast year, at least 75% of all expenditures for the acquisition or commissioning of original first-run Canadian programming shall be set aside for non-related producers.
13. (a) The licensee shall not remit any script and concept development expenditures to its shareholders or affiliated corporations.

(b) The licensee shall direct a minimum of one-third of all script and concept development expenditures to Canadian French-language producers.
14. The licensee shall acquire, when available, all French-language audio-tracks created in Canada for non-Canadian productions or for co-productions that it broadcasts.
15. The licensee shall maintain separate program logs for its English-language and French-language feeds.
16. The licensee shall maintain decision-making personnel dedicated to program commissioning exclusively to TELETOON/TÉLÉTOON.
17. In each broadcast month, the licensee shall not devote more than 10% of the programs broadcast to programming broadcast by either of the specialty services Treehouse TV or YTV.
18. The broadcasting undertaking licensed hereby is designated as a Category A service.
19. In making the calculations required for the purposes of conditions 4 to 9 and 11, the licensee shall use only the accrual method of accounting, with the exception of equity investments in Canadian feature films, for which cash outlays may be taken into account and for which the licensee shall provide proof of payment on a yearly basis. In order to fulfill conditions 4 to 9 and 11, the licensee may have the first three years of the licence term to align its spending with its expenditure requirements as calculated using an accrual method. The accrual method must be fully implemented and in effect for the broadcast year ending 31 August 2016. A reconciliation must be included with the annual return for each of the first three years of the licence term

detailing the amount of Canadian programming expenditures incurred under the accrual method and reconciling this amount with that incurred under the cash method.

20. In addition to the 12 minutes of advertising material during any clock hour in a broadcast day permitted by condition of licence, the licensee may broadcast such additional minutes of advertising material calculated in accordance with *Incentives for English-language Canadian television drama*, Broadcasting Public Notice CRTC 2004-93, 29 November 2004, as amended from time to time.

Expectations

The Commission expects the licensee to ensure that a minimum of 75% of all original, first-run Canadian programming broadcast is acquired from non-related producers.

The Commission expects that the expenditures set out in condition of licence 11 be made predominantly to original French-language Canadian production. An original production is defined as:

- a Canadian program originally in the French language that, at the time of its broadcast by the licensee, has not been previously broadcast by the licensee or by any other licensee; or
- in cases where the licensee contributed to the program's pre-production financing, a Canadian program originally in the French language that has only been previously broadcast by another licensee that also contributed to its pre-production financing.

The Commission expects the licensee to demonstrate responsibility in the scheduling of programming intended for adult audiences, taking into account the time zone differences between where the program originates and where it is received.

The Commission expects the licensee to provide opportunities for producers working outside the major production centres to supply programming for the service.

The Commission expects the licensee to continue to provide a "safe haven" for young children throughout the day by broadcasting 12 hours of programming every weekday from 6 a.m. to 6 p.m. suitable for unsupervised viewing by young children and by scheduling at least 31.5 hours of advertising-free programming between 6 a.m. and 6 p.m. from Monday to Friday of each broadcast week.

Encouragement

The Commission encourages the licensee to continue its efforts to ensure that the programming broadcast by TELETOON/TÉLÉTOON reflects all Canada's regions.

Definitions

For the purposes of these conditions:

“Animation-related programming” means:

- i. Programs that were demonstrably originally inspired by animated or illustrated characters or concepts.
- ii. Programs that contain animation and non-animation formats within a single program.
- iii. Programs about animation or animators/illustrators.

“Broadcast day,” “broadcast month,” “broadcast year” and “clock hour” 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 the *Radio Regulations, 1986*.

“Independent production company” means a Canadian company carrying on business in Canada with a Canadian business address, that is owned and controlled by Canadians, whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

“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.

“Peak viewing period” means the period from 4 p.m. to 10 p.m.

Appendix 4 to Broadcasting Decision CRTC 2013-737

Additional conditions of licence for the national, English-language specialty Category B service known as TELETOON Retro

1. The licensee shall adhere to the standard conditions of licence for specialty Category B services set out in *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011.
2. As regards the nature of service:
 - (a) The licensee shall provide a national, English-language specialty Category B service devoted to classic animation and classic animation-related programs from Canada and around the world, including animated movies, specials, series and shorts. The Canadian programs broadcast on the service shall have commenced production at least five years prior to their exhibition. The non-Canadian programs broadcast on the service shall have commenced production at least ten years prior to their exhibition.
 - (b) The licensee shall draw its programming exclusively from the following categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
 - 2 (b) Long-form documentary
 - 5 (b) Informal education/Recreation and leisure
 - 7 (a) Ongoing drama 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
 - (g) Other drama
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
- (c) The licensee shall not devote more than 5% of the broadcast year to programs drawn from categories 12 Interstitials, 13 Public service announcements and 14 Infomercials, promotional and corporate videos.
- (d) The licensee shall devote at least 90% of all programs broadcast during each broadcast year to programs drawn from categories 7(d) Theatrical feature films aired on TV and 7(e) Animated television programs and films.
- (e) The licensee shall ensure that all programming it broadcasts consists exclusively of animation or animation-related programming, with the exception of programming drawn from categories 12, 13 and 14.

3. Except as provided for in conditions 4 and 8 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming 16% of the previous year's gross revenues of the undertaking.
4. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more pay, specialty or conventional television undertakings from the "Corus group" in the same broadcast year towards fulfilling the requirement in condition 3 as long as these expenditures are not used by those pay, specialty or conventional television undertakings towards fulfilling their own Canadian programming expenditure requirement.
5. Except as provided in conditions 6, 7 and 8 and in accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010 (Broadcasting Regulatory Policy 2010-167), the licensee shall in each broadcast year devote 4% of the previous year's gross revenues of the undertaking to the acquisition of or investment in programs of national interest, as defined in paragraphs 71 to 73 of Broadcasting Regulatory Policy 2010-167.
6. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more pay television services, specialty services or conventional television stations from the "Corus group" in the same broadcast year towards fulfilling the requirement in condition 5 as long as these expenditures are not used by those pay television services, specialty services or conventional television stations towards fulfilling their own programs of national interest requirements.
7. At least 75% of the expenditures in condition 5 must be made to an independent production company.
8. (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions 3 and 5 respectively; 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.

(b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure as set out in conditions 3 and 5, the licensee may deduct that amount as long as it does not exceed 5% of the minimum required expenditure in that year from the minimum required expenditure for the following year of the licence term.

(c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming and programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions 3 and 5.

9. “Specialty services” in conditions 4 and 6 excludes mainstream sports and news services and specialty Category B services with less than 1 million subscribers.
10. The broadcasting undertaking licensed hereby is designated as a Category B service.

Definitions

For the purposes of the conditions of this licence, including condition of licence 1:

“Animation-related programming” means:

- i. Programs that were demonstrably originally inspired by animated or illustrated characters or concepts.
- ii. Programs that contain animation and non-animation formats within a single program.
- iii. Programs about animation or animators/illustrators.

“Broadcast day” means the period of up to 18 consecutive hours, beginning each day not earlier than six o’clock in the morning and ending not later than one o’clock in the morning of the following day, as selected by the licensee, or any other period approved by the Commission.

“Broadcast year” shall have the same meaning as that set out in the *Television Broadcasting Regulations, 1987*.

“Independent production company” means a Canadian company carrying on business in Canada with a Canadian business address, that is owned and controlled by Canadians, whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

Appendix 5 to Broadcasting Decision CRTC 2013-737

Additional conditions of licence and expectation for the national, French-language specialty Category B service known as TÉLÉTOON Rétro

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for specialty Category B services set out in *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011.
2. As regards the nature of service:
 - (a) The licensee shall provide a national, French-language specialty Category B service devoted to classic animation and classic animation-related programs from Canada and around the world, including animated movies, specials, series and shorts. The Canadian programs broadcast on the service shall have commenced production at least five years prior to their exhibition. The non-Canadian programs broadcast on the service shall have commenced production at least ten years prior to their exhibition.
 - (b) The licensee shall draw its programming exclusively from the following categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
 - 2 (b) Long-form documentary
 - 5 (b) Informal education/Recreation and leisure
 - 7 (a) Ongoing drama 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
 - (g) Other drama
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
- (c) The licensee shall not devote more than 5% of the broadcast year to programs drawn from categories 12 Interstitials, 13 Public service announcements and 14 Infomercials, promotional and corporate videos.
- (d) The licensee shall devote at least 90% of all programming broadcast during the broadcast year to programs drawn from categories 7(d) Theatrical feature films aired on TV and 7(e) Animated television programs and films.

(e) The licensee shall ensure that all programming it broadcasts consists exclusively of animation or animation-related programming, with the exception of programming drawn from categories 12, 13 and 14.

3. The broadcasting undertaking licensed hereby is designated as a Category B service.

Expectation

The Commission expects that any dispute regarding terms of trade agreements with independent producer organizations run its course and be handled in accordance with the terms of the agreements before the parties request the Commission's assistance in resolving matters under its jurisdiction.

Definitions

For the purposes of the conditions of this licence, including condition of licence 1:

“Animation-related programming” means:

- i. Programs that were demonstrably originally inspired by animated or illustrated characters or concepts.
- ii. Programs that contain animation and non-animation formats within a single program.
- iii. Programs about animation or animators/illustrators.

“Broadcast day” means the period of up to 18 consecutive hours, beginning each day not earlier than six o'clock in the morning and ending not later than one o'clock in the morning of the following day, as selected by the licensee, or any other period approved by the Commission.

“Broadcast year” shall have the same meaning as that set out in the *Television Broadcasting Regulations, 1987*.