



Broadcasting Decision CRTC 2006-510

Ottawa, 14 September 2006

Black Walk Corporation
Across Canada

Application 2005-0961-4
Public Hearing in the National Capital Region
1 May 2006

Toddler – Category 2 specialty service

*In this decision, the Commission **approves** an application for a broadcasting licence to operate a new Category 2 specialty programming undertaking.*

The application

1. The Commission received an application by Black Walk Corporation (Black Walk) for a broadcasting licence to operate a national, English-language Category 2¹ specialty programming undertaking to be known as Toddler.
2. The applicant proposed to offer a service that would consist of information, advice, options and entertainment for parents of young children or expectant parents. The programming would offer information on pregnancy, child rearing, schools, saving for an education and medical concerns. The service would also feature family comedy and drama programs.
3. All of the programming would be drawn from the following categories set out in Schedule 1 to the *Specialty Services Regulations, 1990*: 2(b) Long-form documentary; 3 Reporting and actualities; 5(a) Formal education and pre-school; 5(b) Informal education/Recreation and leisure; 7(a) Ongoing drama series; 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV; 7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.
4. In response to questions by the Commission, the applicant agreed to accept a condition of licence limiting the amount of programming it may draw from category 7 Drama and comedy to 15% of the broadcast week.

¹ The Category 2 services are defined in *Introductory statement – Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000.

Interventions

5. The Commission received numerous interventions in support of this application as well as opposing interventions by Corus Entertainment Inc. (Corus) and Captioning Consumers of Canada (CCC) and a comment by The Family Channel Inc. (TFC).
6. Corus owns Treehouse TV, an English-language specialty service whose mandate is to provide programming targeted to children up to six years of age. In Corus' view, the Category 2 service proposed in the application would be directly competitive with Treehouse TV. While noting the applicant's commitment to limit category 7 programming to 15% of the broadcast week, Corus expressed concern with the unlimited amount of category 5(a) programming that could be broadcast by the proposed service. Corus also submitted that the proposed definition of the nature of service was vague and did not specify the target audience with sufficient clarity. Corus therefore requested that the Commission impose a condition of licence prohibiting the service from broadcasting category 5(a) programming. Corus also requested that the nature of service condition of licence require that all programming broadcast on the proposed service be targeted to an adult audience.
7. CCC contended that the applicant had not proposed an adequate level of closed captioning. In CCC's view, all the programming offered by the proposed service should be captioned, either by adding captioning to its programming or by acquiring captioned programming. CCC also expressed concern about the quality of captioning.
8. TFC is the licensee of the national, English-language pay television undertaking known as The Family Channel, whose mandate is to provide programming targeted only to children, youth to age 17, and families in conjunction with such children and youth. In its intervention, TFC commented that, consistent with similar cases, the proposed service should be subject to a condition of licence that would ensure that no more than 15% of all programming would be devoted to category 7 programming.

Applicant's reply

9. In response, Black Walk confirmed that the programming broadcast by its proposed service would be targeted to parents and expectant parents. Black Walk stated that the broadcast of programs drawn from category 2(b) would be restricted to between 6:00 a.m. and 9:00 a.m. In addition, Black Walk indicated its willingness to accept a limitation of 15% on category 7 programming by the end of its licence term.
10. The applicant did not reply to CCC.

Commission's analysis and determinations

11. In *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000, the Commission implemented a competitive, open-entry approach to licensing Category 2 services. While the Commission does not consider the impact that a Category 2 service might have on an existing Category 2 service, it does seek to ensure that Category 2 services do not compete directly with any existing pay or specialty television service, including any Category 1 service.
12. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, and Corrected Appendix 2, Public Notice CRTC 2000-171-1, 6 March 2001 (Public Notice 2000-171-1), the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an analog pay or specialty or existing Category 1 service. The Commission examines each application in detail, taking into consideration the proposed nature of service and the unique circumstances of the genre in question.
13. In the present case, the Commission notes that, in response to Corus' intervention, Black Walk confirmed that Toddler's target audience would be parents and expectant parents. Furthermore, as part of the application process, Black Walk agreed to accept a condition of licence restricting the amount of category 7 programming that would be broadcast by the proposed service to 15% of the broadcast week. The Commission is satisfied that these restrictions will ensure that the proposed service would not be directly competitive with any analog, Category 1, pay or specialty service.
14. The Commission acknowledges the concerns raised by CCC. As indicated in *Review of certain aspects of the regulatory framework for over-the-air television*, Broadcasting Notice of Public Hearing CRTC 2006-5, 12 June 2006, the Commission is currently reviewing its approach to closed captioning with a view to improving the quantity and quality of captioning in the Canadian broadcasting system.
15. In light of the above, the Commission is satisfied that the application is in conformity with all applicable terms and conditions announced in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Black Walk Corporation for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking, Toddler.
16. The licence will expire 31 August 2013, and will be subject to the **conditions** set out in Public Notice 2000-171-1, as well as to the **conditions** set out in the appendix to this decision.

Issuance of the licence

17. A licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:
- the applicant has entered into a distribution agreement with at least one licensed distributor; and
 - the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 36 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 14 September 2009. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Secretary General

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

Appendix to Broadcasting Decision CRTC 2006-510

Conditions of licence

1. The licence will be subject to the conditions set out in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001.
2. The licensee shall provide a national, English-language Category 2 specialty programming service offering information, advice, options and entertainment targeted to parents and expectant parents. The programming shall provide information on pregnancy, child rearing, schools, saving for an education and medical concerns. The service shall also feature family comedy and drama programs.
3. The programming shall be drawn exclusively from the following categories, as set out in Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
 - 2 (b) Long-form documentary
 - 3 Reporting and actualities
 - 5 (a) Formal education and pre-school
 - (b) Informal education/Recreation and leisure
 - 7 (a) Ongoing drama series
 - (c) Specials, mini-series or made-for-TV feature films
 - (d) Theatrical feature films aired on TV
 - (f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
4. Not more than 15% of all programming broadcast during the broadcast week shall be drawn from category 7 Drama and comedy.

For the purposes of the conditions of this licence, including condition of licence no.1, *broadcast day* refers to the 24-hour period beginning each day at 6 a.m., or any other period approved by the Commission.