



Broadcasting Decision CRTC 2011-68

PDF Version

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Additional references: 2010-551-1, 2010-551-3, 2010-72, 2010-72-4

Ottawa, 4 February 2011

Corus Audio & Advertising Services Ltd.

British Columbia, Alberta, Saskatchewan and Manitoba

Application 2009-1674-4, received 14 December 2009

Public Hearing in Saskatoon, Saskatchewan

6 October 2010

LOCAL1 – Category 2 specialty service

*The Commission **denies** an application for a broadcasting licence to operate a new Category 2 specialty service.*

Introduction

1. The Commission received an application by Corus Audio & Advertising Services Ltd., a wholly-owned subsidiary of Corus Entertainment Inc. (Corus), for a broadcasting licence to operate a regional, English-language Category 2 specialty programming undertaking to be known as LOCAL1. The applicant indicated that the proposed service would be distributed exclusively in Western Canada (i.e., British Columbia, Alberta, Saskatchewan and Manitoba).
2. The applicant stated that its programming service would focus on the provision of local information customized for each community in which it is distributed. The information would consist of local news, information about community events and activities, and traffic and weather reports, broadcast through the use of video, text, graphics and audio content. The applicant proposed to offer programming from the following program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
 - 1 News
 - 2(a) Analysis and interpretation
 - 3 Reporting and actualities
 - 5(b) Informal education/Recreation and leisure
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Informercials, promotional and corporate videos

3. The applicant requested that the Commission impose the following condition of licence with respect to advertising:

Except as otherwise provided in subparagraphs b) and c), the licensee shall not broadcast more than twelve (12) minutes of advertising material during each clock hour, no more than six (6) minutes of which may consist of local advertising solely from markets in which the licensee has deployed a playback unit in the local cable undertaking head end and where the licensee provides local news, information and weather programming specific to the local community.

4. The Commission notes that this application was first scheduled to be heard at a public hearing on 14 April 2010 (see Broadcasting Notice of Consultation 2010-72), but was withdrawn to be rescheduled at a later date.
5. The Commission received several interventions in support of this application, several interventions offering general comments, and interventions in opposition from Canwest Television Limited Partnership,¹ the Canadian Association of Community Television Users and Stations, the Communications, Energy and Paperworkers Union of Canada, Pelmorex Communications Inc. and The Broadcasters' Coalition. Corus replied collectively to the interventions. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

6. After examining the application in light of applicable policies and regulations, and taking into account the interventions received and the applicant's reply, the Commission considers that the key issues to be addressed in making its determinations relate to the proposed nature of service and programming description provided by Corus, the proposal to broadcast local advertising, and the potential competitiveness of the proposed service with existing Category A² services.

Proposed nature of service and programming description

7. In regard to the proposed nature of service and programming description set out in paragraph 2, Corus stated that LOCAL1 would produce the weather-related programming, but would rely on other sources to provide non-weather related content. In regard to the latter, it stated that LOCAL1 would act as aggregator, bringing together and displaying, in alphanumeric text or as programming, information provided by subscription services, Corus radio stations, provincial and municipal governments and members of the public. It added that the service would rely on these sources to provide videos and content for the hosted local newscasts,

¹ The Commission notes that on 2 November 2010, Canwest Television Limited Partnership was renamed Shaw Television Limited Partnership.

² As set out in Broadcasting Public Notice 2008-100, Category 1 and analog pay and specialty services will be renamed Category A services effective 31 August 2011. The term "Category A" is used in this decision to encompass Category 1 and analog pay and specialty services.

and would not have reporters or journalists out on the street filming news content for its newscasts.

8. In this role as an aggregator of non-weather related content, Corus further indicated that it would have little control over how much content would be provided to it by third parties. As a result, it could not state with certainty how much of this type of programming it would provide, nor could it commit to conditions of licence relating to the proportion of programming that would be dedicated to non-weather related programming.
9. Despite Corus's broad description of the programming to be provided by LOCAL1, the Commission notes that the proposed programming wheel, as provided by Corus in its application, contains mainly weather-related programming. Further, Corus failed to provide supporting commitments regarding local programming and a local presence in each of the markets in which LOCAL1 would operate. In light of the above and given the previously noted lack of program limits and safeguards regarding specific program types, the Commission is not satisfied that the proposed service would not be a weather-related service and considers that Corus has not demonstrated that LOCAL1 would be the local news and information service proposed by the applicant.

Proposal to broadcast local advertising

10. The Commission's policy in regard to local advertising generally links the authority to solicit local advertising with the provision of local programming. In Broadcasting Regulatory Policy 2009-406, local programming is defined as "programming produced by local stations with local personnel or programming produced by locally based independent producers that reflects the particular needs and interests of the market's residents."
11. In its application, Corus stated that the proposed service would provide a considerable amount of local information. At the hearing, Corus stated that should the Commission deny its request to solicit local advertising, the proposed service would not be sustainable. Nevertheless, the Commission notes that all of the programming for LOCAL1 would be produced in Calgary, and that, as noted above, the service would not have a local presence in each of the markets in which it intends to be distributed. Consequently, the Commission considers that the proposed programming to be produced for markets other than Calgary would not meet the Commission's definition of local programming.

Potential competitiveness with existing Category A services

12. In Public Notice 2000-6, 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 Category A service.

13. In Public Notice 2000-171, the Commission adopted a case-by-case approach to determine whether a proposed Category 2 service should be considered directly competitive with an existing Category A 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.
14. In this regard, the Commission questioned whether the proposed service would be directly competitive with existing Category A services, most notably, The Weather Network (TWN). As set out in Decision 2001-668, the nature of service condition of licence for TWN reads as follows:

The programming provided by the licensee shall be dedicated exclusively to video programming, text and graphics relating to meteorological, atmospheric and marine conditions for local, regional and national areas of Canada, and international areas as they may be of national interest to Canadians, as well as programming relating to the prevention and effects of these conditions.

15. The Commission notes that Corus's proposed nature of service and programming definition, as previously indicated, appear at first glance to be distinct from those of TWN. However, Corus did not provide any programming commitments limiting the amount of weather-related content that could be broadcast by the proposed service. In addition, both services would air national, regional and local weather forecasts as well as weather related programming, and the program categories from which they would draw programming as well as their target audiences are identical. The Commission is therefore not satisfied that the proposed service would not be directly competitive with TWN and considers that LOCAL1 does not pass the competitiveness test set out in Public Notices 2000-6 and 2000-171.

Conclusion

16. In light of all of the above, the Commission **denies** the application by Corus Audio & Advertising Services Ltd. for a broadcasting licence to operate the regional, English-language Category 2 specialty television programming undertaking LOCAL1.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2010-72, 11 February 2010
- *Policy determinations resulting from the 27 April 2009 public hearing*, Broadcasting Regulatory Policy CRTC 2009-406, 6 July 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008

- *Introductory statement – Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, as corrected by *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001
- *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000