



Broadcasting Decision CRTC 2007-22

Ottawa, 17 January 2007

Harvey Rogers, on behalf of a corporation to be incorporated Across Canada

*Application 2006-0735-1
Public Hearing at Regina, Saskatchewan
30 October 2006*

N-TV-2 – 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 Harvey Rogers, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a national, English-language Category 2¹ specialty programming undertaking to be known as N-TV-2.
2. The applicant proposed to offer a service that would consist of sexually explicit adult programming in the form of documentaries, dramatic films, talk-shows, phone-in-shows, game shows and other programs on the theme of sexuality. The applicant indicated that a small proportion (2%) of the programming would be in French.
3. All of the programming would be drawn from the following categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*: 1 News; 2(a) Analysis and interpretation; 2(b) Long-form documentary; 3 Reporting and actualities; 5(b) Informal education/Recreation and leisure; 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV; 7(g) Other drama; 10 Game shows; 11 General entertainment and human interest; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.
4. The Commission did not receive any interventions in connection with this application.

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.

Commission's analysis and determinations

5. The Commission is satisfied that the application is in conformity with all applicable terms and conditions announced in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001 (Public Notice 2000-171-1). Accordingly, the Commission **approves** the application by Harvey Rogers, on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking, N-TV-2.
6. The Commission notes that the applicant submitted to the Commission a copy of its internal policy on adult programming in accordance with the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003 (the Industry Code). The Commission expects the applicant to adhere to its internal policy on adult programming, in addition to complying with the condition of licence, as set out in the appendix to this decision, requiring adherence to section D.3 of the Industry Code.
7. The Commission reminds the applicant that if it wishes to enter at any given time into programming supply agreements and licence trademark agreements with non-Canadian independent producers, it must comply at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998 (the Direction). Accordingly, the Commission requests that the applicant file, for the Commission's prior review, a copy of any programming supply agreement and/or licence trademark agreement it intends to enter into with a non-Canadian party, in order to ensure that the applicant complies at all times with the Direction.
8. 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

9. A licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:
 - an eligible Canadian corporation has been incorporated in accordance with the application in all material respects;
 - 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 17 January 2010. 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 2007-22

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 devoted to sexually explicit adult programming in the form of documentaries, dramatic films, talk-shows, phone-in-shows, game shows and other programs on the theme of sexuality.
3. The programming shall be drawn exclusively from the following categories, as 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
 - (b) Long-form documentary
 - 3 Reporting and actualities
 - 5 (b) Informal education/Recreation and leisure
 - 7 (c) Specials, mini-series or made-for-TV feature films
 - (d) Theatrical feature films aired on TV
 - (g) Other drama
 - 10 Game shows
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
4. The service shall only be distributed at the specific request of the subscriber. Distributors are not permitted to package the service in such a way that subscribers are obligated to purchase it in order to purchase any other programming service, other than an adult programming service. Distributors are required to take measures to fully block the reception of both the audio and video portions of the service to subscribers that request it not to be receivable in their home, in either unscrambled or scrambled form.

5. The licensee shall adhere to section D.3 of the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003.

For the purposes of the conditions of this licence, including condition of licence no.1, *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.