



Broadcasting Decision CRTC 2008-3

Ottawa, 9 January 2008

Execulink Telecom Inc.

Ailsa Craig, Arkona, Forest, Ilderton, Parkhill, Port Franks, Thedford and
Watford, Ontario

Application 2007-1039-4, received 17 July 2007

Public Hearing in the National Capital Region

5 December 2007

Video-on-demand service

*The Commission **approves** an application for a broadcasting licence to operate a regional video-on-demand service largely composed of feature films.*

Introduction

1. The Commission received an application by Execulink Telecom Inc. (Execulink) for a broadcasting licence to operate a regional video-on-demand (VOD) programming undertaking to serve Ailsa Craig, Arkona, Forest, Ilderton, Parkhill, Port Franks, Thedford and Watford, Ontario.
2. The Commission did not receive any interventions in connection with this application.

Proposed service

3. The applicant indicated that the new VOD service would consist primarily of feature films but might also include other types of programming such as long form documentary, professional sports, drama and comedy, and general entertainment and human interest. The programming would be predominantly in the English language.
4. Execulink stated that it would provide closed captioning of its proposed VOD programming to serve the needs of viewers who are deaf or hard of hearing. The applicant indicated that it would ensure that 100% of all English-language titles in its inventory is closed captioned by the beginning of the sixth year of the licence term.
5. Execulink stated that it would make its VOD programming accessible to persons with visual impairments through audio description and endeavour to obtain titles with video description (also known as described video).

Commission's determination

6. The Commission is satisfied that the application is in conformity with the licensing framework for VOD services set out in Public Notice 2000-172. Accordingly, the Commission **approves** the application by Execulink Telecom Inc. for a broadcasting licence to operate a regional video-on-demand programming undertaking to serve Ailsa Craig, Arkona, Forest, Ilderton, Parkhill, Port Franks, Thedford and Watford, Ontario. The terms and **conditions of licence** are set out in the appendix to this decision.
7. The Commission notes that while the applicant did not propose any specific commitments for closed captioning in the first five years of the licence term, it should endeavour to select programming that is closed captioned wherever possible.
8. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

Related document

Introductory statement to Decisions CRTC 2000-733 to 2000-738: Licensing of new video-on-demand and pay-per-view services, Public Notice CRTC 2000-172, 14 December 2000

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 2008-3

Terms, conditions of licence and expectations

Terms

Issuance of the broadcasting licence to operate a regional video-on-demand programming undertaking to serve Ailsa Craig, Arkona, Forest, Ilderton, Parkhill, Port Franks, Thedford and Watford, Ontario.

The licence will expire 31 August 2014.

A licence for this undertaking will be issued once 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 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 9 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.

Conditions of licence

1. The licensee shall adhere to the *Pay Television Regulations, 1990*, as amended from time to time, with the exception of section 4 pertaining to logs and records.
2. The licensee shall maintain for a period of one year and submit to the Commission upon request a detailed list of the inventory available on each file server. The list must identify each program by programming category and by country of origin, and indicate the period of time that each program was on the server and available to subscribers.
3. Except as authorized by the Commission, the broadcasting undertaking licensed herein shall be operated in fact by the licensee itself.
4. The licensee shall ensure that, at all times:
 - a) not less than 5% of the English-language feature films and not less than 8% of the French-language feature films in the inventory available to subscribers are Canadian;
 - b) the feature film inventory includes all new Canadian feature films that are suitable for VOD exhibition and meet the approved *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*; and
 - c) not less than 20% of all programming other than feature films in the inventory available to subscribers is Canadian.

5. The licensee shall contribute 5% of its gross annual revenues to an existing Canadian program production fund administered independently of its undertaking.

For the purpose of this condition:

- a) “gross annual revenues” shall be 50% of the total revenues received from customers of the broadcasting distribution undertaking distributing the video-on-demand service, when the video-on-demand service is a “related service”;
 - b) a “related service” is one in which the broadcasting distribution undertaking distributing the video-on-demand service, or any of its shareholders owns, directly or indirectly, 30% or more of the equity of the video-on-demand service;
 - c) “gross annual revenues” shall be the total amount received from the broadcasting distribution undertaking distributing the video-on-demand service, when the video-on-demand service is not a “related service”.
6. The licensee shall ensure that not less than 25% of the titles promoted each month on its barker channel are Canadian titles.
 7. The licensee shall remit to the rights holders of all Canadian feature films 100% of revenues earned from the exhibition of these films.
 8. The licensee shall not enter into an affiliation agreement with the licensee of a broadcasting distribution undertaking unless the agreement incorporates a prohibition against linkage of its service with any non-Canadian discretionary service.
 9. The licensee shall caption 100% of the programming in its inventory, beginning no later than 1 September 2013.
 10. The licensee shall adhere to the guidelines on gender portrayal set out in the Canadian Association of Broadcasters’ *Sex-role portrayal code for television and radio programming*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
 11. The licensee shall adhere to the *Pay television and pay-per-view programming code regarding violence*, as amended from time to time and approved by the Commission.

12. The licensee shall adhere to the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, as amended from time to time and approved by the Commission.

Expectations

Program offering in both official languages

The Commission notes that the applicant did not commit to offer any programming in the French language. Nevertheless, the Commission expects the licensee to make its program offering available, to the maximum extent possible, to customers in both official languages.

Programming packages

The Commission expects the licensee to limit to one week the total period during which the programming in programming packages may be viewed.

Adult programming

The Commission expects the licensee to adhere to its internal policy on adult programming.

Cultural diversity

The Commission expects the licensee to endeavour, through its programming and employment opportunities, to reflect the presence in Canada of ethnocultural minorities, Aboriginal peoples, and persons with disabilities. The Commission further expects the licensee to ensure that the on-screen portrayal of such groups is accurate, fair and non-stereotypical.

Service to persons who are blind or whose vision is impaired

The Commission expects the licensee to provide an audio description of all programming that provides textual or graphic information, including programming broadcast on the barker channel. The Commission also expects the licensee to acquire and make available described versions of programming, where possible, and to ensure that its customer service responds to the needs of visually impaired customers.