



Broadcasting Decision CRTC 2009-594

Route reference: 2009-158

Additional reference: 2009-158-2

Ottawa, 23 September 2009

Canyon.TV Incorporated
Across Canada

Application 2008-1625-9, received 4 December 2008
Public Hearing in Halifax, Nova Scotia
28 May 2009

Canyon TV – Category 2 specialty service

*The Commission **approves** an application for a broadcasting licence to operate a new Category 2 specialty programming undertaking.*

Introduction

1. Canyon.TV Incorporated (Canyon.TV) filed an application for a broadcasting licence to operate Canyon TV, a national, English-language Category 2 specialty programming undertaking that would offer programming dedicated to music videos from a wide range of genres and also include live performances.
2. Canyon.TV is controlled by its sole shareholder and director Mr. Warren Walsh, a Canadian within the meaning of 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.
3. The applicant proposed to offer programming from categories 8(a), 8(b), 8(c) and 14, set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*. No more than 20% of the programming would be offered in the French language. In addition, half (50%) of the programming would be offered in high definition format. The applicant stated that it intended to broadcast music videos rated as explicit.
4. The applicant indicated its willingness to accept conditions of licence requiring that:
 - at least 85% of all programming broadcast during the broadcast week be drawn from category 8(b) Music video clips;

- not more than 10% of all programming broadcast during the broadcast week be drawn from category 8(c) Music video programs;
 - not more than 5% of all programming broadcast during the broadcast week be drawn from category 8(a) Music and dance other than music video programs or clips;
 - not less than 70% of all musical selections broadcast during the broadcast week be devoted to World Beat and International music, as defined in Public Notice 2000-14, as amended from time to time;
 - not less than 20% of all musical selections broadcast during the broadcast week be devoted to Folk and Folk-Oriented, Jazz and Blues, and Non-classic Religious music, as defined in Public Notice 2000-14;
 - not more than 10% of all musical selections broadcast during the broadcast week be devoted to Pop, Rock and Dance, and Country and Country-Oriented music, as defined in Public Notice 2000-14; and
 - it adhere to section D.3 of the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services* set out in Broadcasting Public Notice 2003-10.
5. The Commission did not receive any interventions in connection with this application.

Commission's analysis and determinations

6. The Commission notes that the content that the applicant considered to be adult programming is not consistent with the definition set out in the *Detailed Adult Sex Guidelines* established by the Ontario Film Review Board. Accordingly, the Commission does not expect the applicant to submit an adult programming internal code. In addition, the Commission is not imposing a condition of licence in this regard.
7. The Commission is satisfied that the application complies with the framework set out in Public Notice 2000-6 and with all applicable terms and conditions announced in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Canyon.TV Incorporated for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking Canyon TV. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminder

8. The Commission reminds the applicant that distribution of this service is subject to the applicable distribution rules set out in Broadcasting Public Notice 2008-100.

Secretary General

Related documents

- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory Policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *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
- *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001
- *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000
- *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 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 2009-594

Terms and conditions of licence for the Category 2 specialty programming undertaking Canyon TV

Terms

The Commission directs the applicant to file, by 23 September 2010, an executed copy of Canyon.TV Incorporated's amended by-laws.

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 23 September 2012. 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.

The licence will expire 31 August 2015.

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 music videos from a wide range of genres and also include live performances.
3. The programming shall be drawn 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:
 - 8 (a) Music and dance other than music video programs or clips
 - (b) Music video clips
 - (c) Music video programs
- 14 Infomercials, promotional and corporate videos.

4. At least 85% of all programming broadcast during the broadcast week shall be drawn from category 8(b) Music video clips.
5. Not more than 10% of all programming broadcast during the broadcast week shall be drawn from category 8(c) Music video programs.
6. Not more than 5% of all programming broadcast during the broadcast week shall be drawn from category 8(a) Music and dance other than music video programs or clips.
7. Not less than 70% of all musical selections broadcast during the broadcast week shall be devoted to World Beat and International music, as defined in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
8. Not less than 20% of all musical selections broadcast during the broadcast week shall be devoted to Folk and Folk-Oriented, Jazz and Blues, and Non-classic Religious music, as defined in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
9. Not more than 10% of all musical selections broadcast during the broadcast week shall be devoted to Pop, Rock and Dance, and Country and Country-Oriented music, as defined in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
10. The licensee shall caption 100% of its programs over the broadcast day, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
11. The licensee is authorized to make available for distribution an upgraded version of its service in high definition (HD) format, provided that not less than 95% of the video and audio components of the upgraded and standard definition versions are the same, exclusive of the commercial messages and of any part of the service carried on a subsidiary signal. All of the programming making up the 5% allowance shall be provided in HD format.
12. In order to ensure that the licensee complies 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 licensee shall 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.

For the purposes of the conditions of this licence, including condition of licence 1, *broadcast day* refers to the 24-hour period beginning each day at 6 a.m. or any other period approved by the Commission.