



Broadcasting Decision CRTC 2009-648

Route reference: 2009-296

Ottawa, 14 October 2009

Canwest Television GP Inc. (the general partner) and Canwest Media Inc. (the limited partner), carrying on business as Canwest Television Limited Partnership
Across Canada

Application 2009-0319-7, received 9 February 2009
Public Hearing in the National Capital Region
21 July 2009

Reality 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. Canwest Media Inc., on its behalf as the limited partner and on behalf of Canwest Television GP Inc., the general partner, carrying on business as Canwest Television Limited Partnership (Canwest), filed an application for a broadcasting licence to operate Reality TV, a national, English-language Category 2 specialty programming undertaking that would be devoted exclusively to reality-based programs, including competition-based reality and do-it-yourself makeover programs. The applicant indicated that 35% of both the broadcast day and the evening broadcast period would be dedicated to programming offered in high definition format.
2. The applicant proposed to draw programming from all the programming categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*. Canwest also proposed to limit the broadcast of programming from categories 2(b), 6(a), 7 and the combination of 8(b) and 8(c) as described in Broadcasting Public Notice 2008-100, as well as to limit the broadcast of programming from category 6(b) to 10% of the programming broadcast during the broadcast year. The service would not broadcast any live sports.
3. Further, in order to ensure that Reality TV would not be directly competitive with analog pay or speciality or existing Category 1 services, the applicant proposed specific limitations on the programming to be broadcast by the service. Specifically, the applicant stated that all of the programming broadcast by Reality TV would be reality-based programming, defined as follows:

Reality-based programming will include:

- a) the presentation of contrived circumstance(s) – which may be competitive or non-competitive in nature; and/or
 - b) dramatizations and/or re-creations of real situations or events.
4. The Commission received interventions offering general comments on the application by Corus Entertainment Inc. (Corus) and an individual. The Commission also received an intervention in opposition to the application by High Fidelity HDTV Inc. (High Fidelity). The interventions and the licensee's reply to the interventions can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
 5. After examining the application in light of applicable regulations and policies and taking into account the interventions and the applicant's reply to the interventions, the Commission considers that the issue to be addressed in its determination is whether the proposed service would be or become directly competitive with existing Category 1 or analog pay or specialty services.

Commission's analysis and determination

6. In Broadcasting Public Notice 2008-100, the Commission expressed the view that in most instances, the narrative descriptions of existing Category A services (currently known as Category 1 and analog pay and speciality services) are sufficiently specific to ensure that these services remain true to the genre for which they were licensed. Consequently, the Commission determined that it would permit all Category A services to draw programming from all program categories, thereby providing these services with greater flexibility. However, to ensure that this change did not permit services to morph into other established programming genres and thus become directly competitive with other Category A services, the Commission established a standard limitation of 10% of the broadcast month for the following categories:
 - 2(b) Long-form documentary;
 - 6(a) Professional sports;
 - 7 Drama and comedy;
 - 7(d) Theatrical feature films aired on television;
 - 7(e) Animated television programs or films; and
 - 8(b) and (c) combined – Music video clips and Music video programs.
7. The Commission stated that it did not intend to apply this general approach to Category 2 services, but that in assessing applications for new services or applications for amendments to nature of service conditions of licence, it would generally apply the same limitations.

8. The Commission notes that the programming limitations proposed by the applicant are generally consistent with the approach described in Broadcasting Public Notice 2008-100. Specifically, the Commission notes that in its reply to the interventions filed by Corus and High Fidelity, Canwest confirmed that its intention was to limit the broadcast of programming from category 7 as a whole to 10% of the programming broadcast over the broadcast year. However, consistent with the approach described in Broadcasting Public Notice 2008-100, such limits are to be measured over a broadcast month. A **condition of licence** to this effect is set out in the appendix to this decision.
9. Furthermore, the Commission notes that in its reply to the intervention filed by High Fidelity, Canwest stated that it would be willing to accept the following additional condition of licence:

No more than 10% of all programming broadcast during the broadcast week shall be devoted to reality renovations shows. Reality renovation shows deal primarily with home improvements and modifications to homes and/or gardens.

10. It is the Commission's determination that the proposed nature of service definition, in conjunction with the proposed definition of reality-based programming and programming limitations, would be sufficient to ensure that the service would not be or become directly competitive with analog pay or speciality or existing Category 1 services.

Conclusion

11. The Commission is satisfied that the application is in conformity 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 Canwest Media Inc., on its behalf as the limited partner and on behalf of Canwest Television GP Inc., the general partner, carrying on business as Canwest Television Limited Partnership, for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking Reality TV. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminder

12. The Commission reminds the applicant that the 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

- *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

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 2009-648

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

Terms

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 October 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 2016.

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 exclusively to reality-based programming, including competition-based reality and do-it-yourself makeover programs.

Reality-based programming for the purposes of this condition of licence is defined as:

- a) the presentation of contrived circumstance(s) – which may be competitive or non-competitive in nature; and/or
 - b) dramatizations and/or recreations of real situations or events.
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:

- 1 News
- 2 (a) Analysis and interpretation
(b) Long-form documentary
- 3 Reporting and actualities
- 4 Religion
- 5 (a) Formal education and pre-school
(b) Informal education/Recreation and leisure
- 6 (a) Professional sports
(b) Amateur sports
- 7 Drama and comedy
 - (a) Ongoing dramatic series
 - (b) Ongoing comedy series (sitcoms)
 - (c) Specials, mini-series or made-for-TV feature films
 - (d) Theatrical feature films aired on TV
 - (e) Animated television programs and films
 - (f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy
 - (g) Other drama
- 8 (a) Music and dance other than music video programs or clips
(b) Music video clips
(c) Music video programs
- 9 Variety
- 10 Game shows
- 11 General entertainment and human interest
- 12 Interstitials
- 13 Public service announcements
- 14 Infomercials, promotional and corporate videos

4. The licensee shall devote not more than 10% of the programming broadcast during the broadcast month to programs drawn from each of categories 2(a) and 6(a).
5. The licensee shall devote not more than 10% of the programming broadcast during the broadcast year to programs drawn from category 6(b).
6. The licensee shall devote not more than 10% of the programming broadcast during the broadcast month to programs drawn from category 7 as a whole.
7. The licensee shall devote not more than 10% of the programming broadcast during the broadcast month to programs drawn from categories 8(b) and 8(c) combined.
8. No more than 10% of all programming broadcast during the broadcast week shall be devoted to reality renovation shows. Reality renovation shows deal primarily with home improvements and modifications to homes and/or gardens.
9. The licensee shall not broadcast any live sporting events, professional or amateur.

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. Where the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.

For the purposes of the conditions of this licence, including condition of licence 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.