



## Broadcasting Decision CRTC 2010-110

Route reference: 2009-632

Ottawa, 24 February 2010

### **Canyon.TV Incorporated** Across Canada

*Application 2009-0893-1, received 11 June 2009*

*Public Hearing in the National Capital Region*

*14 December 2009*

### **Terrestrial pay-per-view service**

*The Commission **approves** an application for a broadcasting licence to operate a national terrestrial pay-per-view service largely composed of music programs, feature films, documentaries, gaming content and adult programming.*

### **Introduction**

1. Canyon.TV Incorporated (Canyon.TV) filed an application for a broadcasting licence to operate a national terrestrial pay-per-view (PPV) programming undertaking. There were no interventions to this application.
2. Canyon.TV is a corporation wholly owned and controlled by Mr. Warren Walsh.
3. The applicant indicated that the new terrestrial PPV service would consist primarily of music programs, feature films, documentaries, gaming content and adult programming but might also include other types of programming such as music videos, short films and live music events.
4. Canyon.TV confirmed that it would make its PPV program offering available to customers in both official languages. While the programming would be predominantly in the English language, it would also provide some content in the French language.
5. Canyon.TV stated that it would provide closed captioning of its PPV programming to serve the needs of viewers who are deaf or hard of hearing. The applicant indicated that it would ensure that all English- and French-language programming is closed captioned beginning in the first year of the licence term.
6. Canyon.TV also stated that it would provide access to its PPV programming for persons with visual impairments through video description (also known as described video).

## Commission's analysis and determinations

7. The Commission is satisfied that the application is in conformity with the licensing framework for PPV services set out in Public Notice 2000-172. Accordingly, the Commission **approves** the application by Canyon.TV Incorporated for a broadcasting licence to operate a national terrestrial pay-per-view programming undertaking. The terms and **conditions of licence** are set out in the appendix to this decision.

### Closed captioning

8. In Broadcasting Public Notice 2007-54, the Commission indicated that it would require all English- and French-language broadcasters to caption 100% of their programs over the broadcast day, with the exception of advertising and promos, beginning in the first year of the licence term. Accordingly, the Commission requires the applicant to caption 100% of the programming aired over the broadcast day beginning in the first year of the licence term. A **condition of licence** to this effect is set out in the appendix to this decision.
9. Further, in Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy), the Commission stated that it intends to require television licensees to abide by certain conditions of licence relating to closed captioning at the time of their next licence renewal. However, as this is a new service, the Commission requires the applicant to fulfill the following conditions immediately:
  - to adhere to the quality standards on closed captioning developed by the television industry's working groups, as amended from time to time and approved by the Commission; and
  - to implement a monitoring system to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form.

**Conditions of licence** to this effect are set out in the appendix to this decision.

### Described video

10. In the Accessibility Policy, the Commission indicated that those licensees that are currently required by condition of licence to provide described video would continue to be subject to such a requirement. The Commission intends to consider expanding the types of services to which it will apply described video requirements in the future. For those services such as PPV services that do not currently have a condition of licence regarding described video, the Commission expects these services to acquire and make available described versions of programming, where possible, and to ensure that its customer service responds to the needs of persons with a visual impairment, as set out in Accessibility Policy.

Secretary General

**Related documents**

- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007
- *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 2010-110

## Terms, conditions of licence, expectations and encouragement

### Terms

#### Issuance of the broadcasting licence to operate a national terrestrial pay-per-view programming undertaking

The licence will expire 31 August 2016.

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 24 February 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.

### Conditions of licence

1. The licensee shall provide a national terrestrial pay-per-view (PPV) television programming service consisting primarily of music programs, feature films, documentary, gaming content and adult programming but that may also include other types of programming such as music videos, short films and live music events. The service shall consist of programming drawn exclusively from the following categories set out in item 6 of Schedule I to the *Pay Television Regulations, 1990*, as amended from time to time:
  - 2 (b) Long-form documentary
  - 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 drama 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  
15 Filler programming

2. The licensee shall adhere to the *Pay Television Regulations, 1990*, as amended from time to time, with the exception of sections 4(1), 4(2) and 4(3) pertaining to logs and records.
3. The licensee shall maintain for a period of one year and submit to the Commission upon request a detailed list of programs broadcast on each channel. The list must identify each program broadcast, its key features, its programming category, if the program is an event, the language of the program, if it is Canadian or non-Canadian, if captioning and/or video description is available, if it is produced by the licensee and the times and dates of broadcast.
4. With respect to English-language programming, the licensee shall, through its agreements with the licensees of terrestrial broadcasting distribution undertakings, ensure that the following is made available by these licensees to their pay-per-view (PPV) subscribers in each broadcast year:
  - a) a minimum of 12 Canadian feature films (including all new Canadian feature films suitable for PPV exhibition that meet the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*);
  - b) a minimum of 4 English-language Canadian-based events; and
  - c) the following minimum percentages of Canadian programs: 5% of feature film titles and 20% of all program titles other than feature films.
5. With respect to French-language programming, the licensee shall, through its agreements with the licensees of terrestrial broadcasting distribution undertakings, ensure that the following is made available by these licensees to their pay-per-view (PPV) subscribers in each broadcast year:
  - a) a minimum of 20 Canadian feature films in the original French-language version, or dubbed in French, which have been exhibited in theatres in French-language markets (including all new Canadian feature films suitable for PPV exhibition that meet the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*);
  - b) a minimum of 6 French-language events in each of years one and two, 8 in each of years three and four, 10 in each of years five and six and 12 in year seven of operation; and

- c) the following minimum percentages of Canadian programs: 8% of feature film titles and 20% of all program titles other than feature films.
6. The licensee shall ensure that both English-language and French-language Canadian feature films are scheduled, repeated and promoted in the same manner as non-Canadian feature films.
7. The licensee shall contribute a minimum of 5% of its gross annual revenues derived from its pay-per-view broadcasting activities to one or more independently-administered Canadian production fund or funds to support the development of Canadian programming, provided that these funds meet the criteria set out in *Contributions to Canadian Programming by Broadcasting Distribution Undertakings*, Public Notice CRTC 1997-98, 22 July 1997, as amended from time to time. Contributions shall take the form of monthly instalments, to be remitted within 45 days of month's end, and shall represent a minimum of 5% of that month's gross revenues.
8. The licensee shall remit to the rights holders of all English-language Canadian films and two Canadian-based events per year 100% of the gross revenues earned by the licensee from the exhibition of these films and events. With respect to French-language Canadian feature films, the licensee shall remit 100% of the gross revenues earned by the licensee from the exhibition of these films to distributors and providers with a minimum of 60% to the programming providers.
9. The licensee shall not enter into an affiliation agreement with the licensee of a terrestrial distribution undertaking unless the agreement incorporates a prohibition against the linkage of the licensee's pay-per-view service with any non-Canadian discretionary service.
10. The licensee shall caption 100% of the programming aired during 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 shall adhere to the quality standards on closed captioning developed by the television industry's working groups, as amended from time to time and approved by the Commission.
12. The licensee shall have a monitoring system in place to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form. "Original form" means, at a minimum, that the captioning provided by the licensee reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition.

13. The licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, 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.
14. 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. 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.
15. 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. 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.

## **Expectations**

### **Program offering in both official languages**

The Commission expects the licensee to make its program offering available to customers in both official languages. The Commission expects the licensee to adhere to its commitment to provide programming in the French language whenever possible.

### **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, with the exception of packages of events programming such as seasonal sports or concert series.

### **Adult programming**

The Commission expects the licensee to adhere to its internal policy on adult programming as approved by the Commission. The Commission further expects that any future changes made by the licensee to its internal policy on adult programming will be submitted for Commission approval prior to their implementation.

### **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 acquire and make available described versions of programming, where possible, and to ensure that its customer service responds to the needs of persons with a visual impairment, as set out in *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009.

In regard to described programming, the Commission expects the licensee to:

- display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program; and
- make information available regarding the described programs that it will broadcast.

**Encouragement****Employment equity**

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.