



Broadcasting Decision CRTC 2010-231

Route reference: 2009-803

Ottawa, 23 April 2010

Astral Broadcasting Group Inc.
Across Canada

Application 2009-1366-7, received 9 October 2009
Public Hearing in the National Capital Region
22 February 2010

TV-Time – Category 2 specialty service

1. The Commission **approves** the application by Astral Broadcasting Group Inc. (Astral) for a broadcasting licence to operate TV-Time, a national, English-language Category 2 specialty programming undertaking devoted to action and adventure programming from contemporary action and adventure films and series to classical westerns, rodeo and western horse shows. The Commission also **approves** the applicant's request for authorization to offer both a standard and a high definition version of the service.
2. Astral is a wholly owned subsidiary of Astral Media Inc.
3. 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. The terms and **conditions of licence** are set out in the appendix to this decision.
4. The Commission received a comment by Shaw Communications Inc. (Shaw) regarding all applications for Category 2 services considered as part of this proceeding. Shaw did not oppose these applications but wished to state for the record its concern that any new Category 2 service must be licensed in a manner that is consistent with the streamlined, flexible framework introduced in Broadcasting Public Notice 2008-100. Specifically, Shaw indicated that the Commission should explicitly state that new Category 2 services cannot be granted mandatory distribution orders under section 9(1)(h) of the *Broadcasting Act* and cannot become Category 1 services with access rights. The applicant did not reply to the intervention.

Implementation of the Commission's determinations regarding accessibility of services

5. 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, with the exception of advertising and promos. In Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy), the Commission noted that captioning technology,

including voice recognition software – which is used extensively in captioning French-language programming – has greatly improved and should no longer be considered a technology in development. Consequently, in accordance with the Accessibility Policy, the Commission has set out a **condition of licence** requiring the licensee to:

- ensure that advertising, sponsorship messages and promos are closed captioned by no later than the fourth year of the licence term;
 - adhere to the quality standards on closed captioning developed by television industry working groups, once approved by the Commission, as amended from time to time and approved by the Commission; and
 - implement a monitoring system to ensure that closed captioning is included in the broadcast signal and that captioning reaches the viewer in its original form.
6. In the Accessibility Policy, the Commission also indicated that it would continue to require conventional and Category 1 broadcasters to provide four hours of described video per week. However, the Commission determines that it is appropriate not to impose a condition of licence to that effect for Category 2 services at this time. Nonetheless, the Commission expects that the service authorized in this decision to acquire and make available described versions of programming whenever possible.
7. Further, in that same policy, the Commission indicated that licensees would be required, by condition of licence, to provide audio description for all information programs, including news programming. A **condition of licence** to this effect is set out in the appendix to this decision.

Reminder

8. 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

- *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 – 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 2010-231

Terms, conditions of licence, expectations and encouragement for the Category 2 specialty programming undertaking TV-Time

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 23 April 2013. 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 to action and adventure programming from contemporary action and adventure films and series to classical westerns, rodeo and western horse shows.
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:
 - 5 (b) Informal education/Recreation and leisure
 - 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 10 Game shows

11 General entertainment and human interest

12 Interstitials

13 Public service announcements

4. The licensee shall caption 100% of the English- and French-language programs broadcast 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.
5. In accordance with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, the licensee shall:
 - ensure that advertising, sponsorship messages and promos in the English and French language are closed captioned by no later than the fourth year of the licence term;
 - adhere to the quality standards on closed captioning developed by television industry working groups, as amended from time to time and approved by the Commission; and
 - 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. “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.
6. The licensee shall provide audio description for all the key elements of information programs, including news programming.
7. The licensee is authorized to make available for distribution an upgraded version of its service in high definition format, provided that not less than 95% of the video and audio components of the upgraded and standard definition version of the service 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 high definition format.
8. 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.

Expectations

The Commission expects the licensee to acquire and make available described versions of programming whenever possible.

The licensee is expected 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

The Commission encourages broadcasters to repeat the standard described video logo and audio announcement indicating the presence of described video following each commercial break.