



Broadcasting Decision CRTC 2010-451

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Route reference: 2010-72

Ottawa, 2 July 2010

Jay Switzer, on behalf of a corporation to be incorporated Across Canada

*Application 2009-1549-9, received 12 November 2009
Public Hearing in the National Capital Region
14 April 2010*

KISS – Category 2 specialty service

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

The application

1. Jay Switzer (the applicant), on behalf of a corporation to be incorporated (Jay Switzer (OBCI)), filed an application for a broadcasting licence to provide KISS, a national, English-language Category 2 specialty service that would be devoted to romance, love and relationships. Programming would include series based on relationships, feature films, mini-series, made-for-television movies and occasional magazine-style shows focusing on this genre and its stars. The programming would be provided in high definition format.
2. Jay Switzer (OBCI) will be controlled by its majority shareholder, Mr Jay Switzer.

Intervention

3. The Commission received one intervention in opposition to this application from an individual. This intervention, as well as the applicant's reply, are available on the Commission's website at www.crtc.gc.ca, under "Public Proceedings."
4. The intervener opposed the application on the basis that the number of services devoted to men, women, action, adventure or romance offered on the market is sufficient to respond to the demand.
5. Jay Switzer considered that the intervention did not apply to this application and did not address the issue that the intervener raised.

Commission's analysis and determinations

6. It is the Commission's view that the intervener did not raise issues relevant to the consideration of this application, and the Commission is satisfied that the proposed service would not compete directly with existing Category 1 or analog pay or specialty services. The Commission reminds the applicant that all programming aired by KISS must be consistent with its nature of service as defined in its conditions of licence.

Conclusion

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 Jay Switzer, on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking KISS. The terms and **conditions of licence** are 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

- *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.*

Appendix to Broadcasting Decision CRTC 2010-451

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

Terms

A licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:

- an eligible Canadian corporation has been incorporated in accordance with the application in all material respects;
- 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 2 July 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.

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 licence will be subject to the conditions set out in *Implementation of the Accessibility Policy with respect to new Category 2 specialty services*, Broadcasting Regulatory Policy CRTC 2010-355, 8 June 2010.
3. The licensee shall provide a national, English-language Category 2 specialty programming service devoted to romance, love and relationships. Programming will include series based on relationships, feature films, mini-series, made-for-television movies and occasional magazine-style shows focusing on this genre and its stars. The programming will be provided in high definition format.
4. 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:

- 2 (a) Analysis and interpretation
 - (b) Long-form documentary
 - 3 Reporting and actualities
 - 7 (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
 - (g) Other drama
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
5. 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.
6. 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 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 HD format.

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.