



## Broadcasting Decision CRTC 2011-481

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Route reference: 2011-55

Ottawa, 10 August 2011

**Astral Broadcasting Group Inc.**  
Across Canada

*Application 2010-1658-5, received 10 November 2011*  
*Public hearing in the National Capital Region*  
*5 April 2011*

### INVESTIGATION – Specialty Category B service

*The Commission **approves** an application for a broadcasting licence to operate a new specialty Category B service.*

#### The application

1. Astral Broadcasting Group Inc. (Astral) filed an application for a broadcasting licence to operate INVESTIGATION, a national, Category 2<sup>1</sup> specialty service operating in the French language, that would be devoted to exploring justice and forensic science: legal and police investigations, fraud and swindling, espionage, major trials, procedures, legal firms, coroners, forensic pathology, etc. Intended mainly for adult viewers, INVESTIGATION proposes to air magazines, documentaries, dramas and reality television shows related to justice and forensic science.
2. Astral is a wholly owned subsidiary of Astral Media Inc.
3. The applicant proposed to draw programming for the proposed service from the following program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time: 2(a), 2(b), 3, 5(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 9, 10, 11, 12, 13 and 14.<sup>2</sup>
4. The applicant also proposed to broadcast programming drawn from program category 11(b), as set out in the Broadcasting Regulatory Policy 2010-808, when it comes into effect.

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<sup>1</sup> As set out in Broadcasting Public Notice 2008-100, as of 31 August 2011, Category 2 services will be renamed Category B services.

<sup>2</sup> In Broadcasting Regulatory Policy 2011-401, the Commission formally announced that it had amended program category 11 to add a new category 11(b) Reality television. Consistent with this change, the Commission has added an authorization to broadcast programming from both 11(a) General entertainment and human interest and the new 11(b) program category.

5. The applicant stated that no more than 10% of its programming would be drawn from each of program categories 2(b), 7(d) and 7(e), as set out in the Broadcasting Public Notice 2008-100.

## **Interventions**

6. The Commission received interventions opposing the application from Quebecor Media Inc. (Quebecor), on its behalf and on behalf of TVA Group Inc. (TVA), and from V Interactions Inc. (V Interactions). The applicant replied to these interventions. The public record for this proceeding can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

## **Commission's determination**

7. After examining the application in light of applicable regulations and policies, and taking into consideration the interventions and the licensee's replies, the Commission considers that the issue to be addressed in its determinations is whether the proposed service could become directly competitive with an existing Category A service.<sup>3</sup>
8. V Interactions and Quebecor both argued that the proposed service would be directly competitive with the French-language Category A service, Addik<sup>TV</sup>, formerly Mystère, owned by TVA. Astral explained that the possible overlap between INVESTIGATION and Addik<sup>TV</sup> would occur in programming addressing one of the three themes that Addik<sup>TV</sup> must explore pursuant to its nature of service, i.e. mystery. The applicant added that the proposed nature of service is essentially the same as the one proposed for Canal Justice, a national, French-language Category 2 service authorized in Broadcasting Decision 2005-504, and which is devoted to exploring the theme of justice. In fact, Astral indicated that it has obtained authorization to operate Canal Justice, but was unable to launch the service before the operational deadline. In the above-noted decision, the Commission noted the potential for an overlap that could account for 10% of the broadcast week between the proposed service and two existing French-language services, the specialty service Canal D and the category 1 service Mystère, but was satisfied that Canal Justice's proposed nature of service was sufficiently specific to ensure that it would not be directly competitive with any analog pay or specialty or existing Category 1 service.
9. The Commission notes that Astral's proposed nature of service for INVESTIGATION is more specific than the nature of service it proposed for Canal Justice, due to the addition of the exploration of the theme of criminality to the theme of justice, and the indication that the programming would essentially target adults, and focus on magazines-style shows, documentaries, drama and reality shows. In order to ensure that the service does not compete directly with Addik<sup>TV</sup> or any other

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<sup>3</sup> As set out in Broadcasting Public Notice 2008-100, Category 1 and analog pay and specialty services (services that have access rights) will be renamed Category A services effective 31 August 2011. The term "Category A" is used in this decision to encompass Category 1 and analog pay and specialty services.

existing Category A services, the applicant proposed to devote no more than 10% of each broadcast month to programming drawn from each of program categories 2(b), 7(d) and 7(e). Moreover, while Addik<sup>TV</sup> is devoted to the themes of mystery, fantasy suspense and horror, INVESTIGATION must instead focus on the more specific theme of criminality, that is, the ensemble of techniques for police research and investigation.

10. The Commission therefore finds that INVESTIGATION's proposed nature of service definition is sufficiently specific to prevent this service from being directly competitive with any existing Category A service, including Addik<sup>TV</sup>.
11. The Commission is satisfied that the application complies with all applicable policies, terms and conditions, including those set out in Public Notice 2000-6, Broadcasting Public Notice 2008-100, and Broadcasting Regulatory Policies 2010-786 and 2010-786-1. Accordingly, the Commission **approves** the application by Astral Broadcasting Group Inc. for a broadcasting licence to operate the national, specialty Category B service operating in the French language, INVESTIGATION. 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 requirements set out in the *Broadcasting Distribution Regulations*.

Secretary General

## Related documents

- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011
- *Amendments to certain Regulations made under the Broadcasting Act to add a new program category “Reality television”*, Broadcasting Regulatory Policy CRTC 2011-401, 30 June 2011
- *Definitions for television program categories*, Broadcasting Regulatory Policy CRTC 2010-808, 1 November 2010
- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-786, 25 October 2010
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008

- *Canal Justice – Category 2 specialty service*, Broadcasting Decision CRTC 2005-504, 19 October 2005
- *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 2011-481

### Terms, conditions of licence for the specialty Category B service INVESTIGATION

#### 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 and has provided the Commission with a launch date for the service. The undertaking must be operational at the earliest possible date and in any event no later than 48 months from the date of this decision.

The licence will take effect 1 September 2011 and will expire 31 August 2018.

#### Conditions of licence

1. The licence will be subject to the conditions set out in *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011.
2. The licensee shall provide a national, specialty Category B service operating in the French language, devoted to exploring justice and forensic science: legal and police investigations, fraud and swindling, espionage, major trials, procedures, legal firms, coroners, forensic pathology, etc. Intended mainly for adult viewers, INVESTIGATION proposes to air magazines, documentaries, dramas and reality television shows related to justice and forensic science.
3. The programming shall be drawn exclusively from the following program 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
  - 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, improvisation, unscripted works, stand-up comedy
  - (g) Other drama
  - 9 Variety
  - 10 Game shows
  - 11 (a) General entertainment and human interest
  - (b) Reality television
  - 12 Interstitials
  - 13 Public service announcements
  - 14 Infomercials, promotional and corporate videos
4. The licensee shall not devote more than 10% of the programming broadcast during each broadcast month to programming drawn from each of program categories 2(b), 7(d) and 7(e).
5. The broadcasting undertaking licensed hereby is designated as a Category B service.

For the purposes of the conditions of this licence, including condition of licence 1, *broadcast day* means the period of up to 24 consecutive hours, beginning each day not earlier than four o'clock in the morning, as selected by the licensee, or any other period approved by the Commission.

For the purposes of the conditions of this licence, "broadcast month" shall have the same meaning as that set out in the *Television Broadcasting Regulations, 1987*.