



Broadcasting Decision CRTC 2011-616

PDF version

Route reference: 2011-188

Ottawa, 26 September 2011

Wightman Telecom Ltd.

The province of Ontario

Application 2010-1785-6, received 26 November 2010

Public Hearing in the National Capital Region

17 May 2011

Terrestrial pay-per-view service

*The Commission **approves** an application for a broadcasting licence to operate a regional, terrestrial pay-per-view programming service that will consist primarily of live sports initially, but may include other types of programming in the future.*

The application

1. The Commission received an application by Wightman Telecom Ltd. (Wightman) for a broadcasting licence to operate a regional, terrestrial pay-per-view (PPV) programming undertaking. The Commission did not receive any interventions in connection with this application.
2. Wightman is a wholly owned subsidiary of Wightman Holdings Ltd., which is jointly controlled by Paul and Blair Wightman through their respective holding companies.
3. The applicant indicated that the new PPV service would consist primarily of live sports programming initially, but may include other types of programs in the future. The applicant proposed to draw programming exclusively from the following program categories set out in Item 6 of Schedule 1 of the *Pay Television Regulations, 1990*, as amended from time to time: 2(b), 5(a), 5(b), 6(a), 6(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 8(b), 8(c), 9, 10, 11¹ and 15.
4. Wightman indicated that the programming would be predominantly in the English language.

¹ 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. Finally, the applicant indicated that it would provide closed captioning to serve the needs of viewers who are deaf or hard of hearing. Specifically, it would ensure that 100% of English-language programming aired during the broadcast day is closed captioned, beginning in the first year of the licence term. For persons who are blind or who have visual impairments Wightman indicated that it would provide audio description for all PPV programming with textual or graphic information, including programming broadcasting on the barker channel.

Commission's analysis and determination

6. 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 Wightman Telecom Ltd. for a broadcasting licence to operate the regional, terrestrial pay-per-view programming undertaking. The terms and **conditions of licence** are set out in the appendix to this decision.

Canadian content

7. The Commission notes that general interest PPV services are normally required to abide by standard conditions of licence with respect to the provision of English- and French-language Canadian programming. However, where the programming of a proposed PPV service would consist primarily of live sports, the Commission has generally applied more tailored conditions of licence. While the applicant indicated that its proposed service would consist primarily of live sports initially, it indicated that it may include other types of programs in the future. The applicant also committed, in its application, to abide by the standard conditions of licence with respect to Canadian programming. Accordingly, the Commission has decided to apply the conditions of licence applicable to a general interest PPV service with respect to Canadian programs in case the service elects to provide programming other than live sports. **Conditions of licence** to this effect 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 sets out a **condition of licence** to this effect in the appendix to this decision. Consistent with Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy), the Commission also expects the applicant to provide viewers with a captioned version of all advertising, sponsorship messages and promos offered in its programming.
9. The Commission requires the applicant to adhere to the quality standards on closed captioning developed by the television industry's working groups as approved and amended from time to time by the Commission. The Commission also requires the applicant 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 (if any) and the viewer in its original form. **Conditions of licence** to this effect are set out in the appendix to this decision.

Customer service

10. The Commission expects the service to ensure that its customer service responds to the needs of persons with disabilities, including those with a visual impairment, as set out in the Accessibility Policy.

Described video

11. The Commission notes that the service will be largely composed of live sports programming initially, which will generally include an audio play-by-play commentary provided by on-air announcers. The Commission considers that, given that sports programming is generally described through the on-air announcers' commentary, the objectives of the Accessibility Policy concerning accessibility of programming for persons with visual impairments will be met.
12. Noting that video description is not common in live sports event programming, Wightman nonetheless indicated that it would make every effort to ensure that described video is provided in as much of its programming as possible. Accordingly, the Commission expects the licensee to acquire and make available described versions of programming whenever possible and 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.

Secretary General

Related documents

- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *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.*

Appendix to Broadcasting Decision CRTC 2011-616

Terms, conditions of licence, expectations and encouragement

Terms

Issuance of the broadcasting licence to operate a regional, terrestrial pay-per-view programming undertaking

The licence will expire 31 August 2018.

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 26 September 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.

Conditions of licence

1. The licensee shall provide a regional, terrestrial pay-per-view (PPV) programming service consisting primarily of live sports programming initially but which may include other types of programs in the future. The programming shall be drawn exclusively from the following program 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
 - 5 (a) Formal Education and Pre-school
(b) Informal Education/Recreation and Leisure
 - 6 (a) Professional sports
(b) Amateur sports
 - 7 (a) Ongoing dramatic series
(b) Ongoing comedy series (sitcoms)
(c) Specials, mini-series, 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 (a) General entertainment and human interest
(b) Reality television
 - 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), which pertain 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 program 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) at least 20% of all program titles other than feature films are Canadian.

If the licensee offers Canadian feature films and events:

- b) a minimum of twelve 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*);
 - c) a minimum of four English-language Canadian-based events; and
 - d) a minimum of 5% of Canadian feature films titles.
5. If the licensee offers feature films, it shall ensure that English-language Canadian feature films are scheduled, repeated and promoted in the same manner as non-Canadian feature films.
6. 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 installments, to be remitted within 45 days of month's end, and shall represent a minimum of 5% of that month's gross revenues.
7. The licensee shall remit to the rightsholders 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.

8. The licensee shall not enter into an affiliation agreement with the licensee of a broadcasting distribution undertaking unless the agreement incorporates a prohibition against the linkage of its service with any non-Canadian discretionary service.
9. The licensee shall caption 100% of the English-language programming 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.
10. 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.
11. 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, in its original form, the distributor of that signal (if any) and the viewer. "Original form" means, at a minimum, that the captioning provided by the licensee reaches the distributor (if any) and the viewer unaltered, whether it is passed through in analog or in digital, including in high definition.
12. The licensee shall adhere to the *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.
13. 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.
14. 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 notes that the licensee did not commit to offer any programming in the French language for the time being. Nevertheless, the Commission expects the licensee to make its program offering available, to the maximum extent possible, to customers in both official languages.

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, should the licensee offer such programming in the future. 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 with disabilities

The Commission expects the licensee 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.

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

The Commission expects the licensee to provide viewers with a closed captioned version of all advertising, sponsorship messages and promos offered in its programming.

The Commission expects the licensee to provide an audio description of all programming that provides textual or graphic information, including programming broadcast on the barker channel.

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.