



Broadcasting Decision CRTC 2011-667

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Route reference: 2011-336

Ottawa, 26 October 2011

Fabienne Colas, on behalf of a corporation to be incorporated Across Canada

Application 2011-0413-2, received 26 February 2011
Public hearing in the National Capital Region
18 July 2011

Bon Goût TV – Specialty Category B service

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

The application

1. Fabienne Colas, on behalf of a corporation to be incorporated, filed an application for a broadcasting licence to operate Bon Goût TV, a national, French-language Category 2¹ specialty programming undertaking that would offer programming relating to the culinary habits of different cultural communities and those of their countries of origin. The programming would focus on all aspects of exotic cuisine, from the discovery of markets and exotic groceries to food choices; from the preparation and cooking of meals; from the dish presentation to their enjoyment, alone, with family, friends or at a restaurant. This would be done through entertainment, information and education programming on exotic cuisine, foods and nutrition.
2. The applicant is a corporation owned and controlled by Ms. Fabienne Colas.
3. The applicant proposes to offer programming from the following categories, as set out in item 6 of Schedule I of the *Specialty Services Regulations, 1990*, as amended from time to time: 1, 2(a), 2(b), 3, 5(a), 5(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 9, 10, 11,² 12, 13 and 14.

¹ As set out in Broadcasting Regulatory Policy 2011-455, as of 1 September 2011, Category 2 services are renamed Category B services.

² 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.

4. The Commission received numerous interventions in support of the application, as well as interventions in opposition from Channel Zero Inc. (Channel Zero), l'Autre TV Inc. and an individual, to which the applicant replied. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
5. In their interventions, l'Autre TV Inc. and the individual requested that the Commission deny the application, claiming that the applicant plagiarized l'Autre TV's specialty service proposal (for which the Commission has not yet received an application). L'Autre TV Inc. also submitted that the applicant is in violation of the *Copyright Act*, and stated that the applicant had been served a formal demand to withdraw its application to the Commission.
6. In its reply to l'Autre TV Inc. and the individual, the applicant submitted that addressing the issue of alleged plagiarism is not the responsibility of the Commission.
7. The Commission notes the interveners' concerns regarding the alleged resemblance of the proposed service to another projected service. However, because these issues are beyond the Commission's jurisdiction, the Commission will not take them into account in the examination of the present application.

Commission's analysis and decisions

8. The Commission notes that the applicant's did not propose programming limitations in regard to each program categories *2b*), *7d*), et *7e*), which does not adhere to the standard limitations of 10% of the broadcast month for the above categories, as set out in Broadcasting Public Notice 2008-100. However, the Commission finds that the proposed nature of service definition is sufficient to ensure that Bon Goût TV will not compete directly with any existing Category A services. The Commission reminds the applicant that all programming broadcast by Bon Goût TV must be consistent with its nature of service, as defined in its conditions of licence.

Conclusion

9. 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 Fabienne Colas, on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national, French-language specialty Category B service Bon Goût TV.

Reminder

10. 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

- *Amendments to the Broadcasting Distribution Regulations and other Commission Regulations*, Broadcasting Regulatory Policy CRTC 2011-455, 29 July 2011
- *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
- *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
- *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 2011-667

Terms and conditions of licence for the specialty Category B service Bon Gôût TV

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 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 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, French-language specialty Category B service that would offer programming relating to the culinary habits of different cultural communities and those of their countries of origin. The programming would focus on all aspects of exotic cuisine, from the discovery of markets and exotic groceries to food choices; from the preparation and cooking of meals; from the dish presentation to their enjoyment, alone, with family, friends or at a restaurant. This would be done through entertainment, information and education programming on exotic cuisine, foods and nutrition.
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:
 - 1 News
 - 2 (a) Analysis and interpretation
(b) Long-form documentary
 - 3 Reporting and actualities

- 5 (a) Formal education and pre-school
- (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
- 8 (a) Music and dance other than music video programs or clips
- 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 service approved 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 18 consecutive hours, beginning each day not earlier than six o'clock in the morning and ending no 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.