



Broadcasting Decision CRTC 2022-137

PDF version

Reference: 2022-10

Ottawa, 30 May 2022

Blue Ant Media Inc. on behalf of all proposed partners in the partnerships that would carry on business as SN Channel General Partnership (13334805 Canada Limited, 8946337 Canada Limited and SN Channel ULC) and Blue Ant Television General Partnership (13334805 Canada Limited and 8946337 Canada Limited) Across Canada

Public record: 2021-0698-9

*Public hearing in the National Capital Region
31 March 2022*

Various discretionary services – Acquisition of assets (corporate reorganization)

Summary

The Commission **approves** the application by Blue Ant Media Inc. (Blue Ant), on behalf of all proposed partners in the partnerships that would carry on business as SN Channel General Partnership (13334805 Canada Limited (Newco), 8946337 Canada Limited (8946337) and SN Channel ULC) and Blue Ant Television General Partnership (Newco and 8946337) for authority to effect a corporate reorganization where all the partnership interest owned by Blue Ant in the partnerships would be transferred to Newco, a wholly owned subsidiary of Blue Ant. Consequently, Newco will replace Blue Ant as a partner in the partnerships.

Following the close of the transaction, the partners in Blue Ant Television General Partnership (Newco and 8946337), will be the licensees of the discretionary services A.Side, BBC Earth, BBC First (formerly HiFi), Cottage Life, Love Nature, Makeful TV and T+E (formerly Travel + Escape). In addition, the partners in SN Channel General Partnership (Newco, 8946337 and SN Channel ULC) will become the licensees of the discretionary service Smithsonian Channel.

Application

1. Blue Ant Media Inc. (Blue Ant), on behalf of all proposed partners in the partnerships that would carry on business as SN Channel General Partnership (13334805 Canada Limited (Newco), 8946337 Canada Limited (8946337) and SN Channel ULC) and Blue Ant Television General Partnership (Newco and 8946337) filed an application for authority to effect a corporate reorganization where all the partnership interest owned by Blue Ant in the partnerships would be transferred to its wholly owned subsidiary Newco. Consequently, Newco would replace Blue Ant as a partner in the partnerships.

2. Following the close of the transaction, the partners in Blue Ant Television General Partnership (Newco and 8946337), would be the licensees of the discretionary services A.Side, BBC Earth, BBC First (formerly HiFi), Cottage Life, Love Nature, Makeful TV and T+E (formerly Travel + Escape). In addition, the partners in SN Channel General Partnership (Newco, 8946337 and SN Channel ULC) would become the licensees of the discretionary service Smithsonian Channel. The services included in the corporate reorganization and their licensees are set out as a table in Appendix 1.
3. The applicant also requested new broadcasting licences for the partners to continue the operation of the undertakings under the same terms and conditions as those in effect under the current licences.
4. No change in effective control would occur as a result of the corporate reorganization as all the undertakings are and would remain controlled by Michael I.M. MacMillan, who is Canadian, satisfying the *Direction to the CRTC (Ineligibility of Non-Canadians)*, SOR/97-192.
5. The Commission did not receive any interventions in regard to this application.

Regulatory framework

6. Pursuant to subsection 5(1) of the *Broadcasting Act* (Act), the Commission's mandate is to regulate and supervise all aspects of the Canadian broadcasting system in the public interest. The public interest is reflected in the numerous objectives of the Act and of the Canadian broadcasting policy set out in subsection 3(1) of the Act. The review of ownership transactions in the public interest forms part of the Commission's regulatory and supervisory mandate under the Act.
7. As set out in *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014, the Commission requires applicants to pay tangible benefits when a change in ownership leads to a change in the effective control of a broadcasting undertaking. The payment of tangible benefits is generally not required for corporate reorganizations, since they typically do not result in a change in effective control.
8. The Commission has the authority, pursuant to subsection 9(1) of the Act, to issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the Act, as well as to amend those conditions.

Issues

9. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:
 - whether the transaction is in the public interest; and
 - compliance with regulatory obligations.

Public interest

10. This transaction involves a corporate reorganization that would not result in a change in effective control of the broadcasting undertakings. Further, the applicant proposed to operate the services under the same terms and conditions as those in effect under the current licences.
11. The applicant submitted that the transaction was undertaken for tax planning and administrative purposes. The Commission therefore considers that approval of the transaction would have a very limited impact on the Canadian broadcasting system.

Compliance

12. The Commission generally conducts a review of a licensee's compliance with its regulatory obligations as part of an ownership application. Following a request for information from the Commission, Newco stated that it had no objection to being held responsible, by condition of licence, for any finding of non-compliance on the part of Blue Ant with its regulatory obligations, should such non-compliance be found during the services' next licence renewal.
13. The Commission is of the view that such a condition of licence must be extended to the other partners given that a new licence would be issued to each of the partners involved in the partnerships.
14. Accordingly the Commission imposes the following **conditions of licence** and will evaluate compliance of the various services at their next licence renewal:

Condition of licence for A.Side, BBC Earth, BBC First (formerly HIFI), Cottage Life, Love Nature, Makeful TV, and T + E (formerly Travel and Escape)

13334805 Canada Limited (Newco), and 8946337 Canada Limited (8946337), as partners in the general partnership carrying on business as Blue Ant Television General Partnership, shall be responsible for any non-compliance committed by Blue Ant Media Inc. and 8946337 Canada Limited in regard to their regulatory obligations for the discretionary services A.Side, BBC Earth, BBC First (formerly HiFi), Cottage Life, Love Nature, Makeful TV, and T+E (formerly Travel + Escape) that would have occurred between 31 August 2018 and the date on which new licences are issued to Newco and 8946337, if any such non-compliance is identified during the next licence renewals.

Condition of licence for Smithsonian Channel only

13334805 Canada Limited (Newco), and 8946337 Canada Limited (8946337), as partners in the general partnership carrying on business as Blue Ant Television General Partnership and SN Channel ULC, as a partner in the general partnership carrying on business as SN Channel General Partnership, shall be responsible for any non-compliance committed by Blue Ant Media Inc., 8946337 and SN Channel ULC in regards to their regulatory obligations for the discretionary service Smithsonian Channel that would have occurred between 31 August 2018 and the date on which new licences are issued to Newco, 8946337 and SN Channel ULC, if any such non-compliance is identified during the next licence renewals.

Conclusion

15. In light of all the above, the Commission approves the application by Blue Ant on behalf of all proposed partners in the partnerships that would carry on business as SN Channel General Partnership (Newco, 8946337 and SN Channel ULC) and Blue Ant Television General Partnership (Newco and 8946337) for authority to effect a corporate reorganisation where all the partnership interest owned by Blue Ant in the partnerships would be transferred to Newco, a wholly owned subsidiary of Blue Ant.
16. As provided by the conditions of licence set out above, the partners in Blue Ant Television General Partnership and SN Channel General Partnership will be held responsible for any non-compliance by Blue Ant and the other partners in their respective partnerships in regard to their regulatory obligations should such non-compliance be found as part of the services' next licence renewal.
17. Newco shall notify the Commission of the close of the transaction. Upon surrender of the current licences held by Blue Ant and its partners in Blue Television General Partnership and SN Channel General Partnership, the Commission will issue new broadcasting licences to each of the partners involved in the different partnerships to continue the operation of the undertakings under the terms and **conditions of licence** set out in Appendix 2 to this decision.

Reminders

18. Because the licensees are subject to the *Employment Equity Act* and file reports concerning employment equity with the Department of Employment and Social Development, their employment equity practices are not examined by the Commission.

Secretary General

This decision is to be appended to each licence.

Appendix 1 to Broadcasting Decision CRTC 2022-137

Services for which the broadcasting licences will be issued as a result of this decision and that form part of the Blue Ant Group for the purposes of group-based licensing

Licensee	Name of discretionary service
13334805 Canada Limited and 8946337 Canada Limited, partners in a general partnership carrying on business as Blue Ant Television General Partnership	A.Side
	BBC Earth
	BBC First (formerly HIFI)
	Cottage Life
	Love Nature
	Makeful TV
	T + E (formerly Travel + Escape)
13334805 Canada Limited and 8946337 Canada Limited, partners in a general partnership carrying on business as Blue Ant Television General Partnership and SN Channel ULC, partners in a general partnership carrying on business as SN Channel General Partnership	Smithsonian Channel

Appendix 2 to Broadcasting Decision CRTC 2022-137

Terms, conditions of licence, expectations and encouragements for the national, English-language discretionary services A.Side, BBC Earth, BBC First (formerly HIFI), Cottage Life, Love Nature, Makeful TV, T + E (formerly Travel and Escape) and Smithsonian Channel

Terms

The licences will expire 31 August 2023.

Conditions of licence for all services

1. The licensee shall adhere to the conditions set out in the broadcasting licence for the undertaking as well as the conditions of licence set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, with the exception of condition of licence 19, which is replaced by the following:

19. The licensee is authorized to make available for distribution standard definition and high definition versions of its service, provided that not less than 95% of the video and audio components of the high definition and standard definition versions of the service are the same, exclusive of commercial messages and of any part of the service carried on a subsidiary signal. Further, all of the programming making up the 5% allowance shall be provided in high definition.
2. The licensee shall devote at least 35% of all programming broadcast during the broadcast day to the exhibition of Canadian programs.
3. In accordance with *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010, the licensee shall in each broadcast year devote to the acquisition of or investment in Canadian programming a minimum of 21% of the previous year's gross revenues of the undertaking.
4. The licensee may count expenditures made for the acquisition of or investment in Canadian programming by one or more undertakings from the Blue Ant Group in the same broadcast year towards fulfilling the requirement in condition of licence 3 as long as these expenditures are not used by those undertakings towards fulfilling their own Canadian programming expenditure requirements.
5. Subject to condition 6, the licensee may claim, in addition to its expenditures on Canadian programming:
 - a). a 50% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an Indigenous producer and claimed as Canadian programming expenditures during that broadcast year;

- b). a 25% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an official language minority community producer and claimed as Canadian programming expenditures during that broadcast year. The licensee may claim the credit if:
- i) the programming is produced in the province of Quebec and the original language of production is English; or
 - ii) the programming is produced outside the province of Quebec and the original language of production is French.
6. The licensee may claim the credits calculated in accordance with condition 5 until the expenditures made on Canadian programming produced by Indigenous producers and by official language minority community producers, including credits, reach a maximum of 10% of the Canadian programming expenditure requirement for the Blue Ant Group.
7. The licensee shall, in each broadcast year, devote to the acquisition of or investment in programs of national interest at least 13.5% of the previous year's gross revenues of the undertaking.
8. The licensee may count expenditures made for the acquisition of or investment in programs of national interest by one or more undertaking from the Blue Ant Group in the same broadcast year towards fulfilling the requirement set out in condition 7 as long as these expenditures are not used by those undertakings towards fulfilling their own expenditure requirement regarding programs of national interest.
9. At least 25% of the expenditures in condition 7 must be made to an independent production company.
10. In regard to expenditures on Canadian programming and/or programs of national interest:
- (a). In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming and/or on programs of national interest that is up to 5% less than the minimum required expenditure for that year calculated in accordance with conditions 3 and 7 respectively; in such case, the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.
 - (b). In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming or programs of national interest that is greater than the minimum required expenditure, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.

- (c). Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming and programs of national interest, at a minimum, the total of the minimum required expenditures calculated in accordance with conditions 3 and 7.
11. In the two years following the end of the previous licence term, the licensee shall report and respond to any Commission enquiries relating to the expenditures on Canadian programming, including programs of national interest, made by the licensee and by the Blue Ant Group for that term.
12. The licensee is responsible for any failure to comply with the requirements relating to expenditures on Canadian programming, including programs of national interest, that occurred during the previous licence term.

Additional condition of licence for A.Side, BBC Earth, BBC First (formerly HIFI), Cottage Life, Love Nature, Makeful TV and T + E (formerly Travel and Escape) only

13. 13334805 Canada Limited (Newco), and 8946337 Canada Limited (8946337), as partners in the general partnership carrying on business as Blue Ant Television General Partnership, shall be responsible for any non-compliance committed by Blue Ant Media Inc. and 8946337 Canada Limited in regards to their regulatory obligations for the discretionary services A.Side, BBC Earth, BBC First (formerly HiFi), Cottage Life, Love Nature, Makeful TV, and T+E (formerly Travel + Escape) that would have occurred between 31 August 2018 and the date on which new licences are issued to Newco and 8946337, if any such non-compliance is identified during the next licence renewals.

Additional condition of licence for Smithsonian Channel only

14. 13334805 Canada Limited (Newco), and 8946337 Canada Limited (8946337), as partners in the general partnership carrying on business as Blue Ant Television General Partnership and SN Channel ULC, as a partner in the general partnership carrying on business as SN Channel General Partnership, shall be responsible for any non-compliance committed by Blue Ant Media Inc., 8946337 and SN Channel ULC in regards to their regulatory obligations for the discretionary service Smithsonian Channel that would have occurred between 31 August 2018 and the date on which new licences are issued to Newco, 8946337 and SN Channel ULC, if any such non-compliance is identified during the next licence renewals.

Definitions

For purposes of these conditions:

“Blue Ant Group” means the group of undertakings set out in Appendix 1 to *Various discretionary services – Acquisition of assets (corporate reorganization)*, Broadcasting Decision CRTC 2022-137, 30 May 2022.

“Independent production company” means a Canadian company (i.e., a company carrying on business in Canada, with a Canadian business address, owned and controlled by Canadians) whose business is the production of film, videotape or live programs for distribution and in which the licensee and any company related to the licensee owns or controls, directly or indirectly, in aggregate, less than 30% of the equity.

“Indigenous producer” means an individual who self-identifies as Indigenous, which includes First Nations, Métis or Inuit, and is a Canadian citizen or resides in Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and are Canadian citizens or reside in Canada. In regard to the definition of “independent production company,” “Canadian” includes a person who self-identifies as Indigenous and resides in Canada, whereas “Canadian company” includes a production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and reside in Canada.

“Official language minority community producer” means a company that meets the definition of “independent production company” and that:

- a) if operating in the province of Quebec, produces original English-language programming, or
- b) if operating outside the province of Quebec, produces original French-language programming.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.

Encouragements

The standard encouragements applicable to this licensee are set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.