



## Broadcasting Decision CRTC 2006-119

Ottawa, April 4, 2006

### **Cookie Jar Entertainment Inc., on behalf of a corporation to be incorporated** Across Canada

*Application 2005-0817-9*

*Public Hearing in the National Capital Region*

*16 January 2006*

### **Cookie Jar Educational TV – Category 2 specialty service**

*In this decision, the Commission **approves** an application for a broadcasting licence to operate a new Category 2 specialty programming undertaking.*

#### **The application**

1. The Commission received an application by Cookie Jar Entertainment Inc., on behalf of a corporation to be incorporated (Cookie Jar), for a broadcasting licence to operate a national, English-language Category 2<sup>1</sup> specialty programming undertaking to be known as Cookie Jar Educational TV.
2. The applicant stated that the programming offered by the service would generally consist of core curriculum educational programs and interactivity or education through interaction, in areas such as, but not limited to, language, mathematics, science and technology. This core curriculum programming would be consistent with prevailing educational standards established by competent educational authorities from time to time. The service's educational programming would place significant emphasis on interactivity and would be directed at a target audience of children from pre-kindergarten age to grade 6 and their teachers/educators, parents and caregivers. Approximately 65% of the programming would target children from pre-kindergarten to grade 6 and their teachers/educators. Approximately 35% of the programming would target parents and caregivers of these children and would include programming such as expert advice, activities and homework, among others. Overall, the programming broadcast by the service would focus on curriculum specified strands and/or achievement levels paying special attention to the roles and responsibilities of teachers/educators, parents and caregivers, in addition to the target audience of children.

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<sup>1</sup> The Category 2 services are defined in *Introductory statement – Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000.

3. All of the programming would be drawn from the following categories, as set out in Schedule 1 to the *Specialty Services Regulations, 1990*: 2(a) Analysis and interpretation; 2(b) Long-form documentary; 3 Reporting and actualities; 5(a) Formal education and pre-school; 5(b) Informal education/Recreation and leisure; 7(a) Ongoing drama series; 7(b) Ongoing comedy series (sitcoms); 7(c) Specials, mini-series or made-for-TV feature films; 7(e) Animated television programs and films; 8(a) Music and dance other than music video programs or clips; 8(b) Music video clips, 8(c) Music video programs; 9 Variety; 10 Game shows; 11 General entertainment and human interest; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.
4. In addition, the applicant stated that it would abide by the following conditions of licence:
  - a) The applicant shall devote 70% of its programming to categories 5(a) and 5(b) as measured over the broadcast week for the months of September through June.
  - b) The applicant shall devote 70% of its programming to categories 5(a) and 5(b) as measured over the broadcast month for the months of July and August.
  - c) The applicant shall neither solicit nor broadcast any advertising except in the case of program sponsorship. Such statements may incorporate the name of the sponsor, the business address, hours of business and a brief general description of the types of services or products that the sponsor provides, including the price, name and brand name of the product. Such statements must not contain references to convenience, durability or desirability or contain other comparative or competitive references.
  - d) The applicant shall broadcast no more than 10% of its programming from category 8 as measured over the broadcast week.
  - e) Not less than 50% of the applicant's categories 5(a) and 5(b) programming shall be comprised of five to ten-minute programming segments.
  - f) All programs broadcast between 6 a.m and 9 p.m. shall have as their target audience children from pre-kindergarten to grade 6.

### **Interventions**

5. The Commission received numerous interventions in connection with this application, including one in opposition and one that commented on the application. The comment was filed by the New Media Business Alliance and expressed general support for any application that would serve to enhance the availability and visibility of interactive content.

6. Corus Entertainment Inc. (Corus) opposed the application. Corus owns Treehouse and has a 40% interest in TELETOON/TÉLÉTOON, both analog specialty services. Corus argued that the proposed service would be directly competitive with both TELETOON/TÉLÉTOON and Treehouse, given that Cookie Jar proposed few measures that would sufficiently narrow the focus of its programming. In this regard, Corus noted that Cookie Jar had indicated that “approximately” 65% of programming would target children from pre-kindergarten to grade six and their teachers and educators, while “approximately” 35% would target parents and caregivers of their children. Corus further noted that Cookie Jar had proposed a condition of licence providing that all programs broadcast between 6 a.m. and 9 p.m. would have, as their target audience, children from pre-kindergarten to grade 6. However, Corus expressed concern that there was no further refinement within that age group to ensure that a large majority of that programming would not target the younger end of that age spectrum, as does Treehouse. The intervener also submitted that the proposal to target approximately 35% of programming to parents and caregivers was vague, and could be comprised of programming that was competitive with that offered by TELETOON/TÉLÉTOON.
7. Corus also expressed concern about the applicant’s proposals to devote up to 25% of its programming to material from category 7, and to limit to only 50% the minimum percentage of its programming from categories 5(a) and 5(b) that would consist of 5 to 10 minute segments. Given that the applicant proposed a service based on educational programming, Corus submitted that the proposed undertaking should be limited to broadcasting programming from categories 2(a), 2(b), 3, 5(a), 5(b), 12 and 13.

**Applicant’s reply**

8. In response to Corus, Cookie Jar stated that its proposed nature of service differs significantly from those of both TELETOON/TÉLÉTOON and Treehouse in that its service would be “explicitly educational, with a predominant focus on core curriculum educational programs delivered through the prism of an interactive learning experience.” In an effort to reduce the ambiguity of its proposal, Cookie Jar offered to delete the word “approximately” from the description of the breakdown of its target audience, so that 65% of its programming would target children from pre-kindergarten to grade 6, their teachers and educators, while 35% would specifically target parents and caregivers.
9. In response to Corus’ concerns about programming from category 7, Cookie Jar indicated that the proposed 25% level was consistent with that which was approved for the Category 2 service known as BBC Kids.<sup>2</sup> Nevertheless, Cookie Jar indicated its willingness to accept a condition of licence specifying that a maximum of 15% of its programming would be devoted to material from category 7. Cookie Jar also reiterated its commitment that a minimum of 70% of the programming broadcast in each broadcast

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<sup>2</sup> *BBC Kids*, Decision CRTC 2000-493, 24 November 2000 and 14 December 2000

week from September to June, and a minimum of 70% of the programming broadcast in each broadcast month in July and August would be devoted to material from categories 5(a) and 5(b), and that all other programming would be ancillary to the predominant focus on educational programming.

10. Cookie Jar contrasted its proposed service with TELETOON/TÉLÉTOON and Treehouse, submitting that both TELETOON and Treehouse are broadly based entertainment services, focusing on 30- to 60-minute programming segments. Cookie Jar argued that TELETOON/TÉLÉTOON's focus on animation and Treehouse's focus on drama distinguished those services from the educational service it was proposing.

### **Commission's analysis and determination**

11. With respect to Corus' concern that the service proposed by Cookie Jar would be directly competitive with that provided by TELETOON/TÉLÉTOON and Treehouse, the Commission notes that the applicant proposed several measures designed to ensure that the proposed service would focus on educational programming rather than broadcast entertainment such as drama, comedy and music programming.
12. The Commission considers that the commitments identified above will serve to ensure that the service proposed by Cookie Jar is not directly competitive with that of TELETOON/TÉLÉTOON, Treehouse, or any other existing analog pay or specialty or category 1 service.
13. In light of the above, the Commission is satisfied that the application is in conformity with all applicable terms and conditions announced in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001 (Public Notice 2000-171-1). Accordingly, the Commission **approves** the application by Cookie Jar Entertainment Inc., on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking, Cookie Jar Educational TV.
14. The licence will expire 31 August 2012, and will be subject to the **conditions** set out in Public Notice 2000-171-1, as well as to the **conditions** set out in the appendix to this decision.

### **Issuance of the licence**

15. 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 4 April 2009. 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.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*

## Appendix to Broadcasting Decision CRTC 2006-119

### 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 licensee shall provide a national, English-language Category 2 specialty programming service focusing on formal educational programming. Programming will generally consist of core curriculum educational programs and interactivity, or education through interaction, in areas such as, but not limited to, language, mathematics, science and technology. This core curriculum programming will be consistent with prevailing educational standards established by competent educational authorities from time to time.
3. The programming shall be drawn exclusively from the following categories, as set out in 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 (a) Formal education and pre-school
  - (b) Informal education/Recreation and leisure
  - 7 (a) Ongoing drama series
  - (b) Ongoing comedy series (sitcoms)
  - (c) Specials, mini-series or made-for-TV feature films
  - (e) Animated television programs and films
  - 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 General entertainment and human interest
  - 12 Interstitials
  - 13 Public service announcements
  - 14 Infomercials, promotional and corporate videos
4. No more than 10% of all programming broadcast during the broadcast week shall be drawn from category 8.
5. No more than 15% of all programming broadcast during the broadcast week shall be drawn from category 7.

6. No less than 70% of all programming broadcast during the broadcast week from September to June, inclusive, shall be drawn from categories 5(a) and 5(b).
7. No less than 70% of all programming broadcast during the broadcast month from July to August, inclusive, shall be drawn from categories 5(a) and 5(b).
8. No less than 50% of programming from categories 5(a) and 5(b) shall be comprised of 5 to 10 minute segments.
9. All programs broadcast between 6 a.m and 9 p.m. shall have as their target audience children from pre-kindergarten to grade 6.
10. Not less than 65% of programming shall target children from pre-kindergarten to grade 6 and their teachers and educators.
11. The licensee shall neither solicit nor broadcast any advertising except in the case of program sponsorship. The Commission will permit simple statements of sponsorship that identify the sponsors of a program or of the station. Such statements may incorporate the names of the sponsor, the business address, hours of business and a brief general description of the types of services or products that the sponsor provides, including the price, name and brand name of the product. Such statements must not contain references to convenience, durability or desirability or contain other comparative or competitive references.

For the purposes of the conditions of this licence, including condition of licence no.1, *broadcast day* refers to the 24-hour period beginning each day at 6 a.m., or any other period approved by the Commission.