



Broadcasting Decision CRTC 2007-39

Ottawa, 30 January 2007

Black Walk Corporation
Across Canada

Application 2006-0792-1
Public Hearing in the National Capital Region
14 November 2006

Tease – 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 Black Walk Corporation, for a broadcasting licence to operate a national, English-language Category 2¹ specialty programming undertaking to be known as Tease.
2. The applicant proposed to offer a service that would consist of an adults-only channel, showcasing strippers on stage and nude models in exotic locales. The service would also review soft and hardcore films and profile strippers at work, on the road and at home. The proposed service would also provide entertainment news and gossip related to the adult film industry.
3. All of the programming would be drawn from the following categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*: 2(b) Long-form documentary; 3 Reporting and actualities; 5(b) Informal education; 7(a) Ongoing drama series; 7(c) Specials, mini-series or made-for-TV feature films; 7(e) Animated television programs and films; 7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy; 8(a) Music and dance other than music video programs or clips; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.
4. The applicant also requested that it be authorized, by condition of licence, to broadcast up to six minutes per hour of regional advertising.

¹ 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.

Interventions

5. The Commission received one intervention in connection with this application, submitted by Astral Television Networks, a division of Astral Broadcasting Group Inc. (Astral).
6. Astral indicated that under the Commission's licensing framework for new specialty and pay services, the Commission has, in authorizing Category 2 applications, established restrictions on certain proposed services to ensure that they will not be directly competitive with existing pay, specialty and Category 1 digital channels. These limitations include specific restrictions on program categories, in particular restrictions on Category 7(d) Theatrical feature films. Astral noted that with respect to previously approved Category 2 services, the Commission has generally applied a 15% limitation on this category and submitted that the Commission should impose similar restrictions on the applicant.

Applicant's response

7. In response to Astral, the applicant stated that it will commission and self-produce the majority of its content and that it will not need to provide programming from Category 7(d).

Commission's analysis and determinations

8. With respect to the intervener's comments, the Commission notes that the applicant did not include Category 7(d) in the categories from which its programming would be drawn, and that it specified that it did not intend to distribute adult or any other types of films.
9. 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 Black Walk Corporation for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking, Tease.
10. With respect to the request to broadcast up to six minutes per hour of regional advertising, the Commission notes that there were no interventions opposing the proposal. The Commission therefore **approves** the applicant's request for authority to broadcast up to six minutes per hour of regional advertising. A **condition of licence** to that effect is set out in the appendix to this decision.
11. The Commission notes that Black Walk Corporation submitted to the Commission a copy of its internal policy on adult programming in accordance with the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003 (the Industry Code). The Commission expects the applicant to adhere to its internal policy on adult programming, in addition to complying with the **condition of licence**, as set out in the appendix to this decision, requiring adherence to section D.3 of the Industry Code.

12. The Commission reminds the applicant that if it wishes to enter at any time into an agreement with non-Canadian independent producers regarding the supply of programming or the use of a licence trademark, it must comply at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998 (the Direction). Accordingly, the Commission has imposed a **condition of licence**, as set out in the appendix to this decision, that requires the licensee to file, for the Commission's review, a copy of any programming supply agreement or licence trademark agreement it intends to enter into with a non-Canadian party, in order to ensure that the licensee complies at all times with the Direction.
13. The licence will expire 31 August 2013, 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

14. 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 30 January 2010. 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 2007-39

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, except for condition 4(d), which will not apply, and condition 4a), which is replaced by:

Except as otherwise provided in subparagraphs b) and c), the licensee shall not broadcast more than twelve (12) minutes of advertising material during each clock hour, no more than six (6) minutes of which may consist of regional advertising.

2. The licensee shall provide a national, English-language Category 2 specialty programming service consisting of adults-only programming, showcasing strippers on stage and nude models in exotic locales. The service will also review soft and hardcore films, and profile strippers at work, on the road and at home. The service will also provide entertainment news and gossip related to the adult film industry.
3. The programming shall be drawn exclusively from the following categories, as set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:

2 (b) Long-form documentary

3 Reporting and actualities

5 (b) Informal education/Recreation and leisure

7 (a) Ongoing drama series

(c) Specials, mini-series or made-for-TV feature films

(e) Animated television programs and films

(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy

8 (a) Music and dance other than music video programs or clips

12 Interstitials

13 Public service announcements

14 Infomercials, promotional and corporate videos

4. The licensee shall adhere to section D.3 of the *Industry code of programming standards and practices governing pay, pay-per-view and video-on-demand services*, Broadcasting Public Notice CRTC 2003-10, 6 March 2003.

5. The service shall only be distributed at the specific request of the subscriber. Distributors are not permitted to package the service in such a way that subscribers are obligated to purchase it in order to purchase any other programming service, other than an adult programming service. Distributors are required to take measures to fully block the reception of both the audio and video portions of the service to subscribers that request it not to be receivable in their home, in either unscrambled or scrambled form.
6. In order to ensure that the licensee complies at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998 (the Direction), the licensee shall file, for the Commission's prior review, a copy of any programming supply agreement and/or licence trademark agreement it intends to enter into with a non-Canadian party.

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.