



## Broadcasting Decision CRTC 2006-62

Ottawa, 14 March 2006

### **FiftyPlus Television Network Limited** Across Canada

*Application 2005-0624-8*  
*Public Hearing in the National Capital Region*  
*14 November 2005*

### **Senior's Lifestyle Channel – 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 FiftyPlus Television Network Limited (FiftyPlus), for a broadcasting licence to operate a national, English-language Category 2<sup>1</sup> specialty programming undertaking to be known as Senior's Lifestyle Channel (SLC).
2. The applicant proposed to offer a service that would be devoted to all aspects of an active retirement lifestyle with distinct streams of programming for Canadians over the age of 50. Original Canadian programming would include talk, open-line and information programs on topics such as grand-parenting, mature second relationships and second careers as well as on consumer, health and legal issues of particular relevance to seniors, food programs that target one or two-person households with heart-healthy and diabetic-friendly fare, and exercise programs tailored to the diversity of seniors' physical needs. Other programming would include rock and roll music of the 50's through the early 80's along with comedy, drama, movies and documentaries; each program created or selected to inform, challenge, motivate and engage mature Canadians in healthy and fulfilling lifestyles.
3. All of the programming would be drawn from the following categories set out in Schedule 1 to the *Specialty Services Regulations, 1990* (the Regulations): 1 News; 2(a) Analysis and interpretation; 2(b) Long-form documentary; 3 Reporting and actualities; 4 Religion; 5(b) Informal education/Recreation and leisure; 6(b) Amateur sports; 7(a) Ongoing drama series; 7(b) Ongoing comedy series (sitcoms); 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV;

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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.

7(e) Animated television programs and films; 7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy; 7(g) Other drama; 8(a) Music and dance other than music video programs or clips; 8(b) Music video clips; 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. The applicant proposed that no more than 25% of programming broadcast during the broadcast week shall be drawn from any one genre or category, and that no more than 20% of all programming broadcast during the broadcast week would be drawn from category 7.
5. The applicant also indicated that no programming drawn from categories 7(b) Ongoing comedy series (sitcoms), 7(e) Animated television programs and films, or 7(g) Other drama would originate in the United States, and that all programming drawn from category 7 with the exception of that drawn from categories 7(b), 7(e) and 7(g) shall have been copyrighted 25 years prior to the broadcast year in which they are aired by the service.
6. Further, the applicant proposed that no more than 25% of all programming broadcast during the broadcast week would be drawn from category 8(a) Music and dance other than music video programs or clips. Musical selections in programming drawn from Category 8 would primarily be “rock and roll” and other genres popular from the 1950’s to the early 1980’s.

## **Interventions**

7. The Commission received a number of interventions expressing support for this application, and one in opposition, submitted by CanWest MediaWorks Inc. (CanWest) on behalf of CanWest MediaWorks Inc. and Prime Television Holdco Inc., partners in a general partnership carrying on business as Prime TV, the licensee of the national English-language analog specialty television service known as Prime TV.
8. CanWest indicated that Prime TV offers programming targeted to men and women 50 years of age and over, and includes a mix of new information programs of relevance to its target audience, combined with entertainment programs from the past. The intervener stated that SLC would compete directly with Prime TV. CanWest submitted that the programming that would be offered by SLC would essentially be “identical” to that which is presently provided by Prime TV and that it would appeal primarily to the same audience as Prime TV’s target audience. However, as a Category 2 service, SLC would have minimal Canadian content requirements and no expenditure commitments.
9. CanWest argued that the licensing of SLC could have “a negative financial impact on Prime TV in the long term as Prime TV’s licensing obligations are much more onerous than those imposed on Category 2 services”.

### **Applicant's response**

10. In response to CanWest's concerns, the applicant indicated that the proposed service would be distinct from Prime TV. FiftyPlus provided examples of the type of programming it would offer, such as talk and open-line – and information – programs on other issues of importance to seniors; programs which would be produced in Canada, by Canadian producers for Canadian audiences. The applicant also detailed plans for cooking programs focussing on heart-healthy and diabetic-friendly food that would be of interest to one- and two-person households, programs featuring rock and roll music of the 1950's to the early 1980's, and programming that would help seniors who are "downsizing". Moreover, FiftyPlus stated that SLC would offer programming that respects and responds to the diversity within the larger seniors' demographic, a diversity that is unacknowledged in lifestyle programming that is currently available.
11. The applicant noted that Prime TV advertises itself as "Canada's Entertainment Network" while SLC would be an information service.
12. FiftyPlus further argued that the mission, themes and target audience of its proposed service were unrelated to the mission of Prime TV, which heavily features drama programming.
13. Finally, the applicant stated that it had proposed restrictions that would reinforce the unique nature of SLC, including a prohibition on the broadcast of U.S.-originated sitcoms which, it pointed out, constitute almost 40% of Prime TV's schedule.

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

14. In *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000, the Commission implemented a competitive, open-entry approach to licensing Category 2 services. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an existing analog pay or specialty service or an existing Category 1 service, although not with an existing Category 2 service. The Commission examines each application in detail, taking into consideration the proposed nature of service and the unique circumstances of the genre in question.
15. In this case, the Commission has examined the restrictions proposed by the applicant as described in paragraphs 4, 5, and 6 above, in light of the information contained on the program logs submitted to the Commission by Prime TV for the 2004-2005 broadcast year. With no specific restriction on the amount of American drama programming it may air, 28% of Prime TV's overall programming consisted of American drama programming from categories 7(b), 7(e), and 7(g), which would be prohibited on SLC by a proposed condition of licence. Also, 29% of Prime TV's peak hour 8-11 p.m. schedule was made up of American programming from these categories.

16. The proposed restrictions would limit programming from category 7 (drama and comedy) to 20% of the broadcast week on SLC. Prime TV has no specific restriction on the amount of category 7 programming it may air. Its logs show that 38% of its programming was drawn from this category during the 2004-2005 broadcast year.
17. Further, SLC has proposed a condition of licence limiting it to a maximum of 25% of its programming to be drawn from any one genre or category. Prime TV has no such restriction, except for one that applies only to programming from category 3 (Reporting and actualities).
18. For the reasons set out 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). **Conditions of licence** consistent with the applicant's commitments discussed above are set out in the appendix to this decision. Accordingly, the Commission **approves** the application by FiftyPlus Television Network Limited for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking, Senior's Lifestyle Channel.
19. 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**

20. A licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:
  - 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 14 March 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 2006-62

### 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 service devoted to all aspects of an active retirement lifestyle with distinct streams of programming for Canadians over the age of 50. The programming will consist of talk, open-line and information programs on topics such as grand-parenting, mature second relationships and second careers as well as consumer, health and legal issues of particular relevance to seniors, food programs that target one- or two-person households with heart-healthy and diabetic-friendly fare, and exercise programs tailored to the diversity of seniors' physical needs. Other programming will include rock and roll music of the 1950's through the early 1980's, along with comedy, drama, movies and documentaries; each program created or selected to inform, challenge, motivate and engage mature Canadians in healthy and fulfilling lifestyles.
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:
  - 1 News
  - 2 (a) Analysis and interpretation  
(b) Long-form documentary
  - 3 Reporting and actualities
  - 4 Religion
  - 5 (b) Informal education/Recreation and leisure
  - 6 (b) Amateur sports
  - 7 Drama and comedy
    - (a) Ongoing drama 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, 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
  - 9 Variety
  - 10 Game shows
  - 11 General entertainment and human interest

12 Interstitials

13 Public service announcements

14 Infomercials, promotional and corporate videos

4. The licensee shall devote not more than 25% of the total programming broadcast during the broadcast week to programs drawn from any one genre.
5. The licensee shall devote not more than 20% of the total programming broadcast during the broadcast week to programs drawn from category 7.
6. No programming drawn from categories 7(b) Ongoing comedy series (sitcoms), 7(e) Animated television programs and films, and 7(g) Other drama shall originate in the United States.
7. All programming from category 7 with the exception of categories 7(b), 7(e), and 7(g) shall have been copyrighted 25 years prior to the broadcast year in which it is aired by the service.
8. The licensee shall devote not more than 25% of the total programming broadcast during the broadcast week to programs drawn from category 8(a) Music and dance other than music video programs or clips.
9. Musical selections used in programming drawn from Category 8 will be primarily “rock and roll” and other genres popular from the 1950’s to the early 1980’s.
10. The licensee shall adhere to the Commission’s *Policy regarding open-line programming*, Public Notice CRTC 1988-213, 23 December 1988.

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.