



## Broadcasting Decision CRTC 2007-206

Ottawa, 27 June 2007

**Bhupinder Bola, on behalf of a corporation to be incorporated  
Across Canada**

*Application 2006-1486-9, received 16 November 2006  
Public Hearing at Membertou, Nova Scotia  
16 April 2007*

### **The Adult Entertainment Channel (AEC) – 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.*

1. Bhupinder Bola, on behalf of a corporation to be incorporated, filed an application for a broadcasting licence to operate The Adult Entertainment Channel (AEC), a national English-language Category 2 specialty programming undertaking devoted to sexually explicit adult programming in the form of documentaries, dramatic films, talk shows, and open-line and other programs on the theme of sexuality.
2. The Commission has implemented a competitive, open-entry approach to licensing Category 2 services. While the Commission does not consider the impact that a Category 2 service might have on an existing Category 2 service, it does seek to ensure that Category 2 services do not compete directly with any existing Category 1 or analog pay or specialty television 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. Where appropriate, in setting conditions of licence, the Commission prevents or limits the broadcast of specific types of programming to ensure that the service is not nor will become directly competitive with any existing Category 1 or analog pay or specialty television service.
3. In the present case, the Commission received one intervention in connection with this application from Astral Television Networks, a division of Astral Broadcasting Group Inc. (Astral). Astral owns and operates The Movie Network and MPix, two English-language analog pay television programming undertakings that provide general interest theatrical movie-based services in eastern Canada. The intervener noted that the applicant had proposed no restrictions on its selections from the programming categories set out in the *Specialty Services Regulations, 1990*. Astral requested that the service be subject, by condition of licence, to a 15% limitation on programs from category 7(d) (Theatrical feature films aired on TV).

4. In its reply, the applicant noted that the Commission has previously licensed several similar Category 2 English-language services with no limitation on category 7(d) programming.

### **Commission's analysis and determinations**

5. With respect to the intervener's comment, the Commission notes that the applicant's proposed nature of service is limited to the distribution of adult-type entertainment and films. The Commission considers that this is sufficient to distinguish the service from The Movie Network and MPix without imposing a 15% limitation on programs from category 7(d).
6. The Commission is further satisfied that the application is in conformity with all applicable terms and conditions announced in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Bhupinder Bola, on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national English-language Category 2 specialty programming undertaking The Adult Entertainment Channel (AEC). The terms and **conditions of licence** of the new undertaking are set out in the appendix to this decision.
7. The Commission reminds the applicant and distributors that the service, due to the adult nature of the programming, may only be distributed at the specific request of the subscriber and that 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. Furthermore, 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.

Secretary General

### **Related documents**

- *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001
- *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000
- *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. 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 2007-206

### Terms and conditions of licence for the Category 2 specialty programming undertaking The Adult Entertainment Channel (AEC)

#### 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. 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 27 June 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.

The licence will expire 31 August 2013.

#### 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 devoted to sexually explicit adult programming in the form of documentaries, dramatic films, talk shows, and open-line and other programs on the theme of sexuality.
3. The programming shall be drawn exclusively from the following 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 (b) Informal education/Recreation and leisure
  - 7 (c) Specials, mini-series or made-for-TV feature films
  - (d) Theatrical feature films aired on TV
  - (e) Animated television programs and films
  - (g) Other drama
  - 9 Variety
  - 10 Game shows
  - 11 General entertainment and human interest
  - 12 Interstitials
  - 13 Public service announcements
  - 14 Infomercials, promotional and corporate videos
4. 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 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.
5. The licensee shall adhere to the provisions regarding adult programming set out in 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.

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.

### **Expectation**

The Commission expects the applicant to adhere to its internal policy on adult programming.