



## Broadcasting Decision CRTC 2009-121

Route reference:

Broadcasting Notice of Public Hearing [2008-13](#)

Additional reference:

[2008-13-3](#)

Ottawa, 6 March 2009

### **Glassbox Television Inc.**

Across Canada

*Application 2008-1055-8, received 1 August 2008*

*Public Hearing in the National Capital Region*

*16 December 2008*

### **AUX TV – Category 2 specialty service**

*The Commission **approves** an application for a broadcasting licence to operate a new Category 2 specialty programming undertaking.*

1. Glassbox Television Inc. (Glassbox) filed an application for a broadcasting licence to operate AUX TV, a national, English-language Category 2 specialty service that would be devoted to emerging music and its creation, including programming featuring emerging music and aimed at helping emerging musicians. The applicant stated that no more than 15% of all programming broadcast during the broadcast month would be drawn from each of categories 5(a), 7(a), 7(c), 7(d), 7(e), 7(f) and 10, and no more than 35% from category 8(b), as set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*. The Commission received one intervention in support of this application.
2. The applicant also requested an exception to the closed captioning policy set out in Broadcasting Public Notice [2007-54](#) (the closed captioning policy) which requires licensees to caption 100% of all English-language programs. The applicant proposed to caption 100% of all professionally produced programs and 85% of user-generated content during the broadcast day, rising to 100% of all programs in the sixth year of operation.
3. In regard to the applicant's request for an exception to the closed captioning requirement, the onus is on the applicant to demonstrate a need, financial or otherwise, for the exception, as set out in the closed captioning policy. The Commission finds that the applicant did not include supporting financial information or demonstrate why meeting the 100% requirement would be impossible. The Commission therefore requires Glassbox, by **condition of licence**, to caption 100% of all programs upon commencement of operations.

4. In light of the above, the Commission is 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 Glassbox Television Inc. for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking AUX TV. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

**Related documents**

- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007
- *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001
- *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 2009-121

### Terms and conditions of licence for the Category 2 specialty programming undertaking AUX TV

#### Terms

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 6 March 2012. 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 2015.

#### 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 emerging music and its creation, including programming featuring emerging music and aimed at helping emerging musicians.
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 (a) Formal education and pre-school  
(b) Informal education/Recreation and leisure
  - 7 Drama and comedy
    - (a) Ongoing dramatic series
    - (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
- 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 15% of all programming broadcast during the broadcast month shall be drawn from each of categories 5(a), 7(a), 7(c), 7(d), 7(e), 7(f) and 10.
  5. No more than 35% of all programming broadcast during the broadcast month shall be drawn from category 8(b).
  6. The licensee may rebroadcast non-educational emerging music programming that ceases to be emerging music programming with the following limitations:
    - The total airtime of such programming shall not comprise more than 20% of all programming broadcast during the broadcast month;
    - Such programming drawn from category 8(b) shall not comprise more than 25% of the time of any individual program; and
    - No more than six hours per month shall be devoted to the rebroadcast of such programming in retrospective programs.
  7. The licensee shall caption 100% of its programs over the broadcast day, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
  8. 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.

For the purposes of the conditions of this licence, including condition of licence 1, *broadcast day* means the period of up to 18 consecutive hours, beginning each day not earlier than six o'clock in the morning and ending not later than one o'clock in the morning of the following day, as selected by the licensee, or any other period approved by the Commission.

For the purposes of the conditions of this licence:

*Educational emerging music programming* means informal or formal educational programming aimed at assisting musicians or potential musicians in their careers or musicianship.

*Non-educational emerging music programming* means programming in which no performing artist who is the primary focus of that programming, except where that performing artist acts as a host, had any musical selection appear on any of the RPM 100 Singles, RPM Retail Singles, The Record Retail Singles, The Record Country, RPM 100 Country Tracks, Canadian Music Network National Airplay, Canadian Music Network Country Top 50 Audience, Billboard Hot 100 Singles, or Billboard Hot Country charts more than 12 months prior to the date on which the programming aired.