



Broadcasting Decision CRTC 2009-434

Route reference: 2009-140

Ottawa, 22 July 2009

WETV Canada Corporation
Across Canada

Application 2009-0406-2, received 25 February 2009

The Green Channel – Licence amendment

*The Commission **denies** the application by WETV Canada Corporation (WETV) to amend the broadcasting licence for the Category 2 specialty television service known as The Green Channel in order to draw up to 15% of its programming from categories 7(a) and 7(e). However, the Commission **approves** the applicant's request to increase to 15% the amount of programming it may broadcast from categories 7(d) and 11, subject to the **condition** that the programming from category 7(d) is consistent with its nature of service.*

*The Commission **approves** WETV's request to amend the condition of licence relating to its nature of service.*

Introduction

1. The Commission received an application by WETV Canada Corporation (WETV) to amend the broadcasting licence for the Category 2 specialty television service known as The Green Channel in order to draw up to 15% of its programming from categories 7(a) On-going dramatic series, 7(d) Theatrical feature films, 7(e) Animated television programs and films and 11 General entertainment and human interest, as set out in item 6 of Schedule I of the *Specialty Regulations, 1990*. The licensee stated that it required the amendment to allow greater programming flexibility and to ensure balance in its program schedule.
2. WETV also proposed to replace the word “environment” in the description of its nature of its service with the word “sustainability” so as to provide a more accurate description of the programming content.
3. The Commission received an intervention in opposition to the application by Astral Media Inc. (Astral), to which the applicant replied.
4. The Commission considers that the issue to be determined is whether the proposed amendments are consistent with *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008 (Broadcasting Public Notice 2008-100).

Commission's analysis and determinations

5. In Broadcasting Public Notice 2008-100, the Commission expressed its view that, in most instances, the narrative descriptions of Category 1 services are sufficiently specific to ensure that these services remain true to the genre for which they were licensed. Consequently, the Commission determined that it would permit all Category 1 services to draw programming from all program categories, thereby providing these services with greater flexibility. However, to ensure that this change does not permit services to morph into other established programming genres and thus become directly competitive with other Category 1 services, the Commission established a standard limitation of 10% of the broadcast month for the following categories:
 - 2(b) Long-form documentary;
 - 6(a) Professional sports;
 - 7 Drama and comedy;
 - 7(d) Theatrical feature films aired on television;
 - 7(e) Animated television programs or films; and
 - 8(b) and (c) combined - Music video clips and Music video programs.
6. The Commission stated that it did not intend to apply this general approach to Category 2 services but that in assessing applications for new services or applications for amendments to nature of service conditions of licence, it would generally apply the same limitations.
7. Astral submitted that The Green Channel should not be authorized to devote over 10% of its programming to category 7 programs as a whole.
8. In its reply, WETV agreed to a 10% limit on the broadcast of programs on the totality of category 7 with the exception of subcategory 7(d). WETV stated that it required the 15% limit for category 7(d) to program specific days throughout the year as special programming days and air movies for such events as Earth Day or from the Toronto International Environmental Film Festival.
9. The Commission notes that WETV is currently subject to a condition of licence limiting the broadcast of programming from categories 7 and 11 combined to 10% of all its programming in the broadcast year. The Commission further notes that the approach established in Broadcasting Public Notice 2008-100 grants broadcasters greater flexibility to draw from programming categories, subject to a standard 10% limitation on certain categories. This flexibility is extended on a case-by-case basis to licensees of Category 2 services.
10. Consistent with Broadcasting Public Notice 2008-100, the Commission **denies** the application by WETV Canada Corporation to amend the broadcasting licence for the Category 2 specialty television service known as The Green Channel in order to increase from 10% to 15% the level of programming it may draw from categories 7(a) and 7(e).

However, the Commission **approves** the licensee's request to increase to 15% the amount of programming it may broadcast from categories 7(d) and 11, subject to the **condition** that the programming from category 7(d) is consistent with its nature of service. The Commission also **approves** the licensee's request to change the description of its nature of service to provide a more accurate description of the programming content. The **conditions of licence** are set out in the appendix to this decision.

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 2009-434

Conditions of licence

1. The licence will be subject 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 television service devoted to programming about sustainability and how human behaviour impacts the natural environment.
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
 - 5 (b) Informal education/Recreation and leisure
 - 7 (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
 - 8 (c) Music video programs
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate video
4. No more than 10% of all programming broadcast during the broadcast year shall be drawn from categories 7(a), 7(c) and 7(e) combined.
5. No more than 15% of all programming broadcast during the broadcast year shall be drawn from each of categories 7(d) and 11.
6. All programming from categories 7 and 11 shall be environment-related.
7. The licensee is authorized to make available for distribution a version of the service in high definition (HD) format, provided that not less than 95% of the video and audio components of the upgraded and standard definition versions of the service are the same, exclusive of commercial messages and of any part of the service carried on a subsidiary signal. Further, all of the programming making up the 5% allowance shall be provided in HD.