



Broadcasting Decision CRTC 2010-223

Route reference: 2009-461

Additional references: 2009-461-2, 2009-461-3 and 2009-461-4

Ottawa, 21 April 2010

Glassbox Television Inc.
Across Canada

*Application 2009-0778-5, received 20 May 2009
Public Hearing in the National Capital Region
29 October 2009*

AUX TV – Category 2 specialty service

*The Commission **denies** an application for a broadcasting licence to operate a new Category 2 specialty television programming undertaking. A dissenting opinion by Commissioner Michel Morin is attached.*

Introduction

1. The Commission received an application by Glassbox Television Inc. (Glassbox) for a broadcasting licence to provide AUX TV, a national, French-language Category 2 specialty programming undertaking that would offer programming devoted to emerging music and its creation including programming intended to help emerging artists.
2. The applicant also requested the authorization, by condition of licence, to allow the service to be made available for distribution in high definition (HD) format until the end of the licence term, consistent with the Commission's approach to HD specialty services set out in Broadcasting Public Notices 2003-61 and 2006-74 and with the changes to this approach announced in Broadcasting Public Notice 2008-100.
3. Glassbox is a Canadian corporation whose principal shareholders are Andrea Pyman and Jeffrey Elliott. They own 40% and 35% of the voting shares respectively. The remaining issued common shares are held by Canadian shareholders (15%) and non-Canadian shareholders (10%). Glassbox is controlled by its board of directors, consistent with the terms of the Security Holders' Agreement.
4. The Commission received an intervention in opposition to the application from MusiquePlus Inc. expressing concern that the proposed service could be directly competitive with its service and with existing Category 1 or analog pay or specialty services, particularly those serving a smaller French-language market. The intervention and the applicant's reply can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

5. After examining the application, the intervention and the applicant's reply, the Commission considers that the primary issue arising from this application is whether the proposed service would be directly competitive with existing Category 1 or analog pay or specialty services and in particular with the French-language analog specialty service known as MusiquePlus.

Would AUX TV be directly competitive with existing Category 1 or analog pay or specialty services and in particular with MusiquePlus?

6. The Commission has implemented a competitive, open-entry approach to licensing Category 2 services. Nevertheless, it does seek to ensure that Category 2 services do not compete directly with any existing Category 1 or analog pay or specialty television services. In Public Notice 2000-171, the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an existing Category 1 or analog pay or specialty 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.
7. In the present case, the Commission considers that the applicant proposed a very broad nature of service definition that would allow considerable flexibility in the type of programming that could be broadcast and that does not clearly define how the proposed programming would be complementary to that offered by existing Category 1 or analog pay or specialty services such as MusiquePlus.
8. The Commission further notes that Glassbox requested to draw its programming from most of the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*. The Commission also notes that the applicant proposed safe-guards, such as limiting the broadcast of programming drawn from certain categories to a percentage of all programming, to ensure that the programming would not be directly competitive with existing Category 1 or analog pay or specialty services.
9. The Commission finds that given the definition of the nature of service submitted by the applicant, the proposed service could be competitive with existing Category 1 or analog pay or specialty services and specifically with MusiquePlus. Moreover, the Commission is not convinced that the safeguards presented in the application are sufficient to eliminate this risk.

Conclusion

10. The Commission recognizes that a proposal to offer an outlet for French-language emerging artists would surely have a positive impact in the current market conditions. However, given that the applicant failed to demonstrate that its proposed service would not be directly competitive with existing Category 1 or analog pay or specialty services, the Commission **denies** the application by Glassbox Television Inc. for a broadcasting licence to operate the national, French-language Category 2 specialty television programming undertaking to be known as AUX TV.

Secretary General

Related documents

- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Regulatory framework for the licensing and distribution of high definition pay and specialty services*, Broadcasting Public Notice CRTC 2006-74, 15 June 2006
- *The regulatory framework for the distribution of digital television signals*, Broadcasting Public Notice CRTC 2003-61, 11 November 2003
- *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001

This decision 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>.

Dissenting opinion of Commissioner Michel Morin

The majority decision of my fellow commissioners to deny GlassBox Television Inc. (GlassBOX) the setting up of a national, French-language service dedicated to emerging music is to me both surprising and deeply disappointing, as it will have the effect of putting young Francophone artists in this country at a disadvantage relative to emerging Anglophone artists. Without the French-language stage proposed by GlassBOX, emerging Francophone artists will have no other choice but to subscribe to and appear on the other AUX TV, GlassBOX's English-language Category 2 specialty service dedicated to emerging music. The Commission's overly cautious decision, rooted in its concern over the competition Groupe Astral would face, fails to mention that neither of the specialty services MusiquePlus and MusiMax in Quebec – both owned by Groupe Astral – is dedicated to emerging music.

MusiquePlus – A bit of background

MusiquePlus broke new ground in North America in the 1980s and 1990s with its bold support for emerging music. Although not created until 1986, that is, after MTV in the United States (1981) and MuchMusic in Toronto (1984), MusiquePlus (a literal translation of *MuchMusic*) quickly took off soon after the launch of its Toronto studios and became the most innovative service the continent had ever seen.

An entire generation of Quebec youth – Francophones and Anglophones alike – became fans of MusiquePlus, which began operations at the corner of Saint-Laurent and Hôtel-de-ville and then in 1997 moved to the corner of Sainte-Catherine and Bleury, one of the busiest spots in the Quebec metropolis. The first French-language specialty service quickly struck a chord with its huge windows opening onto Sainte-Catherine Street and its camera operators moving about with their equipment hoisted on their shoulders, leaving us “old fogies” in an utter daze.

Without question, young viewers and fans of emerging music got their money's worth from MusiquePlus's first 15 years on the air. It was all about young people talking to young people. Advertising revenues were high compared with those of other specialty services, which relied more on the subscription rates set by the Commission: 10 cents a month, which at the time was nine times less than the Canadian Broadcasting Corporation's French-language service RDI. Videos by emerging artists found a home in no time. MusiquePlus had become a spark. How many young Francophone artists who had spent years knocking on doors to no avail shot to the top after appearing on MusiquePlus? How many Éric Lapointes? Daniel Bélangers? Jean Leloups? Kevin Parents? More often than not, MusiquePlus was the preferred springboard for emerging artists.

There is nothing like that today among French-language Category 1 and Category 2 specialty services. No one is stepping up to be the prime French-language showcase for emerging artists and singers.

This is what one young Anglophone told me when asked what MusiquePlus once meant to him:

When MusiquePlus first became available through my cable provider, I was very pleased that there was finally an alternative to Much Music. While I had previously been a fan of MM, as its popularity had increased I noticed that it was becoming progressively “slicker” and was focusing more and more on the “Big Pop Hits” to the exclusion of much of the less instantly popular music it used to also play. I guess I just found that it was morphing into a copy of MTV, without a distinct “Canadian” feeling. Sure, you could still hear the few big hits from Canadian musicians which were also making it big South of the border, but the more unique music with perhaps a more regional feeling was slowly disappearing.

MusiquePlus was different. Maybe because of the language gap, or maybe because of something else, it felt less “Americanized” and more open to disparate musical tastes. I got to hear music from Quebec, from the rest of Canada, and the United States, all of which was delivered with more flair and enthusiasm than was found on MuchMusic.

Though I am now perhaps beyond the age where one watches musical stations religiously, I do occasionally turn to both MuchMusic and MusiquePlus. As far as I am concerned MuchMusic is at best an MTV clone with little or nothing uniquely Canadian about it. MusiquePlus is marginally better, but it too seems to have been sucked into following a format more interested in “Youth Culture” than music.

A generation later, remote-controlled cameras have now replaced nimble camera operators on Sainte-Catherine Street. Opaque drapes now cover MusiquePlus’s windows. That says it all. Rather than open itself up to its audience, MusiquePlus no longer wants its audience to look in on it. The company has let go dozens and dozens of employees. Could it be that the owner is eyeing profits like those of its other services? That may be so, since MusiquePlus was profitable when it focused on emerging music. Still, employees may have been sacrificed, but the audience has not been fooled. Profits that were once reasonable – albeit lower than those of other Groupe Astral channels – are now plummeting. In an interview given last year to the *Journal de Montréal*, Mr. Luc Doyon, principal vice-president and director of MusiquePlus and Musimax, stated that MusiquePlus currently holds a mere 1.3% share of the 18- to 34-year-old youth market, down from 2% barely three years ago. Having slashed its fixed costs, the company says it is looking for a new role, a new audience, but its market shares are becoming smaller and smaller, and it never mentions emerging music. If you need proof, simply go to the website. No, emerging music is not part of MusiquePlus’s business plan. It is as plain as the nose on your face. More than half of the videos are shown after midnight, when there are almost no viewers.

MusiquePlus was more than just emerging music – it was also a school. It had everything young people wanted, and while they may not have had the same disposable income as viewers 25 years of age and older, they were open to new things. Proximity and interactivity – words very much in vogue these days – were already part of MusiquePlus’s arsenal back then. It was before the days of Twitter and Facebook, when we were using telephones and fax machines, and the station was literally buzzing. By 1995, MusiquePlus had its own website. In two decades, more than 800 employees passed through the doors: from Christian Bernerche, one of Montréal’s top camera operators, to artistic director and producer Jean Lamoureux and veteran on-air hosts Véronique Cloutier and Marie Plourde – just some of today’s top artists who learned the ropes at MusiquePlus, a school immersed in emerging music. Five years ago, the channel celebrated its 18th anniversary with a gala event at the Bell Centre; the evening’s line-up included Corneille, Louis-José Houde, Avril Lavigne and Denis Drolet, just to name a few.

In 2007, Groupe Astral, which had acquired 50% of the service when it took over Radiomutuel in 1999, became the sole proprietor of MusiquePlus.

And now, MusiquePlus has been on the decline for several years. It is trying to find itself. Why? No one really knows. Is it because Groupe Astral is trying to get the same return it does on its other channels? Last fall, MusiquePlus announced that it was shifting back to music and away from reality television, but not a word was said about emerging music in any of the media coverage. Today, MusiquePlus is in the mainstream; emerging music is not even on its radar.

GlassBOX’s proposal

At the outset, it should be stated that, at this non-appearing hearing, Groupe Astral did not demonstrate that it would provide a specialty service for emerging music. For me, this seems to be an implicit prerequisite prior to engaging in a public war against the arrival of a new channel. The Commission’s alarm bells should have gone off, but instead, it seemed to be more concerned over GlassBOX potentially competing with other music channels than it was over the need to offer a service targeting starving young artists trying to break into the market. In other words, it is not because a channel airs videos in the middle of the night that it can claim to promote emerging music!

Second, GlassBOX did not talk about emerging music in vague and imprecise terms. The company stuck to very precise definitions and guidelines, the likes of which had never been seen before, to determine what emerging music means. It was an unprecedented initiative for a specialty service that the Commission should have given its nod to instead of leaving it to hover in doubt as it does in this decision.

Meanwhile, for the past decade, Groupe Astral – far from wanting to get back to its emerging music roots – has been relentless in its efforts to build up its musical audience. Less than six months ago, in October 2009, MusiquePlus asked the Commission to add new programming categories to the list from which it is authorized to draw its programming. Young people would say, “Any more mainstream than that, you’re toast.”

Emerging music videos, which, by condition of licence in paragraph 3, must account for 50% of MusiquePlus’s weekly programming, are currently broadcast over a very short period during the night, from 12:30 a.m. to 9:00 a.m. on weekdays and from 1:00 a.m. to 8:00 a.m. on weekends.

MusiquePlus’s programming includes original or translated reality television shows that have little or nothing to do with emerging music. Programs like *Accorde ton look*, *Artiste du mois* and *Rock’n’Road*, which could be used to showcase emerging music, account for at most 2% of MusiquePlus’s total programming.

If we use the definition proposed by GlassBOX, emerging music represents less than 10% of MusiquePlus’s programming content. From a regulatory standpoint, this means that AUX TV would not compete directly with Groupe Astral’s Category 1 service. No one has shown or proven otherwise, including this decision, which does not refer anywhere to this 10% threshold. In the interest of consumers and emerging artists, it’s understandable that I find it hard to support the panel’s decision, I, who since my appointment in August 2007, have written no less than nine dissenting opinions (ten including this one). There is a key word that has always guided me when I have had to turn my mind to an issue: competition. This is true and can be verified for each of my dissenting opinions, whether it be that for Kelowna, for Sherbrooke, for Montréal or for Ottawa. These dissenting opinions can be found in the following decisions:

- [*The implications and advisability of implementing a compensation regime for the value of local television signals: A report prepared pursuant to section 15 of the Broadcasting Act*](#), 23 March 2010
- *Reconsideration of Broadcasting Decision 2008-222 pursuant to Orders in Council P.C. 2008-1769 and P.C. 2008-1770*, Broadcasting Decision CRTC [2009-481](#), 11 August 2009
- *Video-on-demand service*, Broadcasting Decision CRTC [2008-366](#), 23 December 2008
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC [2008-100](#), 30 October 2008

- *Licensing of new radio stations to serve Ottawa and Gatineau*, Broadcasting Decision CRTC [2008-222](#), 26 August 2008, corrected by *Licensing of new radio stations to serve Ottawa and Gatineau – Correction*, Broadcasting Decision CRTC [2008-222-1](#), 28 August 2008
- *Change in the effective control of TQS inc. and licence renewals of the television programming undertakings CFJP-TV Montréal, CFJP-DT Montréal, CFAP-TV Québec, CFKM-TV Trois-Rivières, CFKS-TV Sherbrooke, CFRS-TV Saguenay and of the TQS network*, Broadcasting Decision CRTC [2008-129](#), 26 June 2008
- [CRTC Report to the Minister of Canadian Heritage on the Canadian Television Fund](#) (Appendix 2), announced in [CRTC submits report on the Canadian Television Fund](#), news release, 5 June 2008
- *Licensing of new radio stations to serve Kelowna, British Columbia*, Broadcasting Decision CRTC [2008-62](#), 14 March 2008
- *CIGR-FM Sherbrooke – Acquisition of assets*, Broadcasting Decision CRTC [2007-435](#), 24 December 2007

Specific definitions

Not only could AUX TV's programming have been made subject to the Commission's existing guidelines, and not only could the Commission have approved a new definition of emerging artist within the service's conditions of licence, but GlassBOX also offered additional guarantees that would have limited its programming and further protected Groupe Astral's service.

Let us look at those guidelines. In order for an artist to be considered an emerging artist, either six months must have elapsed since sales of one of the artist's recordings attained gold record status according to Soundscan or 48 months must have elapsed since the commercial release of the artist's first album. These are the first two guidelines that can be used to give new life to an emerging artist who has not achieved commercial success.

As I just stated, GlassBOX went beyond that. The company proposed to differentiate between non-educational and educational emerging music programming.

Regarding non-educational programming, artists would not be eligible to participate in AUX TV if they were in the Top 40 charts used by the Commission in the 12 months preceding the date on which the program aired. This is quite a restriction for determining who can be considered an emerging artist! As for educational emerging music programming, in *AUX TV – Category 2 specialty service*, Broadcasting Decision CRTC 2009-121, 6 March 2009, it is defined as “informal or formal educational programming aimed at assisting musicians or potential musicians in their careers or musicianship.”

A poorly motivated decision

The Commission has already granted a licence to Clovys Communications Inc. (now known as Clovys TV inc.), a French-language entertainment channel that offers programming covering hit music (urban music [*hip-hop, rap, rhythm and blues, soul and reggae*], world music [*zyj m raum soca, calypso, compa, bossa nova*], Latin music [*reggaeton, merengue, salsa, bachata*] and Black culture), programming that is far more similar to that of MusiquePlus than to that of AUX TV. In 2008, MusiquePlus and Astral Television Networks opposed Clovys's application. What reason could there be for this double standard? How could opposition from a general interest channel like MusiquePlus sway the Commission in one case but not in the other? How could the panel make such a decision? It completely escapes me.

Broadcasting Decision 2009-121 puts the Commission in a somewhat paradoxical and, in my view, untenable situation of having approved, for the English-language market, a service similar to the one it is denying the French-language market with AUX TV, a Category 2 service that incidentally would have had the same name in both markets.

What more did it want in terms of definitions, safeguards and benchmarks? The Commission, which did not approve the licence application, refuses to say, and in the circumstances, this strikes me as a total aberration. How can the Commission ask for "more" when it is unable to say what "more" is? Unfortunately, the Commission is not being very transparent if it wants to encourage other broadcasters to offer that type of service to Francophones under the age of 24, who are still without a Category 2 platform for emerging music.

The Commission writes, "given the definition of the nature of service submitted by the applicant, the proposed service could be competitive with existing Category 1 or analog pay or specialty services and specifically with MusiquePlus. Moreover, the Commission is not convinced that the safeguards presented in the application are sufficient to eliminate this risk." My response to this is that the Commission's role is not to eliminate competition in order to protect a service. Is ours a market economy or a state-controlled economy? This is no longer the 1970s, when the Commission worked to establish a regulatory framework designed to protect a budding industry. We are in the second decade of the 21st century. No, thank you. Bring on competition as far as I am concerned!

The desire to protect a service subject to more restrictive regulatory obligations does not jibe with the "risk of competition" to which the Commission refers. Now that Canada's broadcasting system has matured, let competition drive it!

Remember that all the Commission said in the past is that it was willing to deal with these applications on a case-by-case basis, with at least two conditions: (a) that the Category 1 service protected by the Commission through its conditions of licence provide its own proof of the threat it faces – which was not done in this instance; and (b) that the Category 2 service be respectful of Category 1 services – which in this instance was demonstrated by the guidelines proposed by GlassBOX, not to mention those already

put in place by the Commission. The Commission never said that it wanted to eliminate the “risk of competition.” The choice of those words signals a change in course, which in my view tarnishes the will of the Commission in its newly expanded version.

To ensure that GlassBOX keeps its word, the Commission could have – and this would have been perfectly normal in my opinion – imposed as a condition of licence the multiple definitions of emerging artist. This would have largely protected the service offered by Groupe Astral from competition stemming from AUX TV’s expanding into other musical formats.

Regarding the decision by the Commission, which “is not convinced that the safeguards presented in the application are sufficient to eliminate this risk,” could the Commission be more transparent and respectful of the industry? What additional safeguards is it talking about? Can it define them? Can it list them so that GlassBOX or any another party can at some point offer the service to our teenagers? This strikes me as essential to the transparency and well-being of the Canadian broadcasting system, which currently offers Francophones virtually nothing in the way of emerging music.

GlassBOX with an AUX TV very different from MusiquePlus

When all is said and done, the AUX TV service proposed by GlassBOX would not have been a promotional vehicle for big stars or a means of strengthening Quebec’s star system. It would have been an alternative channel featuring panel discussions on the challenges faced by emerging musicians, as well as interviews by established musicians with unknown musicians who might never achieve real commercial success. That is what GlassBOX and its AUX TV emerging music specialty service had to offer.

The only defence MusiquePlus put forward to demonstrate its commitment to emerging music was that it once broadcast 35 videos by known artists. For me, this argument is not particularly convincing given the channel’s current programming and its general interest approach to young viewers.

Appended to this dissenting opinion is a list of 32 MusiquePlus programs. The programs shown on a white background could ultimately, in my view, deal with issues related to emerging music. Notice that I say “ultimately.” That does not mean that, in actual practice, these programs contain emerging music. The shaded programs, on the other hand, are in my opinion squarely on the fringe of emerging music; they are programs to which none of GlassBOX’s programs could have given umbrage, because they have absolutely nothing to do with emerging music. You be the judge. A brief description is provided for each of the programs that would or would not have faced competition from GlassBOX.

The French-language descriptions of these 32 programs, translated here into English, are taken verbatim from MusiquePlus’s website. Nothing has been added or removed. The findings are lethal: the term “emerging artist” appears only once, and this, in the first of the 32 descriptions! Again, to decide for yourself, refer to the appendix to this dissenting

opinion. You will find in the descriptions nary a word about emerging music. What more evidence is needed?

MusiquePlus's history aside, this illustration seems to me quite convincing and could no doubt be confirmed by young people, who were the real fans of MusiquePlus several years ago and who are still looking for an emerging music specialty service.

In writing that it "is not convinced that the safeguards presented in the application are sufficient to eliminate this risk," the Commission sins not once, but twice. Not only does it not propose an alternate definition of emerging music programming, but it refers to a "risk" that it fails to prove in its two-and-a-quarter page decision. The Commission is not being transparent to an applicant who wants to offer a new service, a preferred showcase for emerging artists.

As I noted earlier, the decline of MusiquePlus (which moved away from its original mandate for which a Category 1 licence was issued) has been confirmed over the past few years. Is it the Commission's mission to protect companies looking for a new audience and new musical content that, moreover, has nothing to do with emerging music?

The majority of the panel should also be reminded that, in recent years, the Commission has wisely adopted an approach that favours the proliferation of Category 2 services in order to meet the increasingly diverse needs of consumers. As competition opens up in categories like news and sports, it is more than high time to adopt the same attitude with respect to specialty music services, which can certainly hold a candle to those other categories in terms of diversity. Finally, with regard to Groupe Astral's argument that the Quebec market lacks the capacity to welcome a new music service, it bears reiterating that capacity has no regulatory basis.

Finally, it is interesting to note that even though there are two protected French-language services and three protected English-language services, none devotes a minimum of 10% of its programming to emerging music. Yet MusiquePlus is the only one of these protected services that challenged this conclusion. Was there not an important determination to be made regarding the essence of Groupe Astral's objections? Should the Commission not have exercised its duty to question the validity of the arguments put forward by MusiquePlus, which was crying wolf?

When MusiquePlus's licence was last renewed in 2001 (see *Licence renewal for MusiquePlus*, Decision CRTC 2001-729, 29 November 2001), the Commission itself made the following observation:

The licensee stated that MusiquePlus has become the preferred cultural channel for youth and young adults, who tune to its service not only for its musical content, but also for news of events occurring within Quebec's cultural landscape and for information about performances and various other matters that concern young people. In addition, since MusiquePlus supports a number of social causes

that are not directly related to music, but are nonetheless of interest to youth, such as the homeless and young offenders, the licensee proposed that the description of its nature of service specify that 90% of the programming must have a connection to music-related programs.

At that time, the Executive Secretary of MusiquePlus stated, during the hearing, that MusiquePlus's mandate was much broader than that of MuchMusic. GlassBOX, meanwhile, planned to increase its Canadian content gradually from 15% in Year 1 to 25% in Year 2 and to 35% in subsequent years. Here was a Category 2 specialty service making a substantial offer for domestic emerging music! After many years on the air, both MusiquePlus and Musimax continue to provide, by condition of licence, 60% Canadian content.

Conclusion

AUX TV is already there for the English-language audience. The Commission had much more than theoretical arguments to consider. In order to make its decision, all it had to do was watch the English-language version of AUX TV on Rogers (channel 107) in Ottawa.

Anglophones already have other Category 2 services that air music videos, such as Much Vibe, Ultimate Indies and MuchMoreRetro. The Commission had already determined that those English-language music video services did not compete with existing Category 1 services.

This makes me wonder what bee got into the bonnets of the majority of the panel to make them reach a decision diametrically at odds with the decision they made on the English-language side, if it was not the more limited capacity of the French-language market.

I am the first to acknowledge that fact, and I have referred to it many times in the past. The Quebec market, with its 6 million Francophones, is comparable in size to San Francisco. In other words, it is a very small market in North American terms.

Unfortunately for the service offered by Groupe Astral, market capacity has no regulatory or legal basis for factoring in the risk of competition to which the Commission refers in its decision.

The Commission ought to have considered nothing but the proposed nature of service. In its decision, it is still very vague on the conditions that might at some point be brought about in order to protect MusiquePlus, assuming that the service, owing to its current programming, has to be protected from a service dedicated to emerging music. I believe the majority of the panel is very much in the wrong for not being more transparent in its intentions. In reality, it discourages other broadcasters from proposing to the Commission a programming service devoted to emerging music, something Francophones, unlike Anglophones, currently do not have.

For all these reasons, I would have approved the application by GlassBOX Television Inc. for a broadcasting licence to operate a national, French-language Category 2 specialty television service that would be devoted to emerging artists and that would have been known as AUX TV.

Appendix to the dissenting opinion of Commissioner Michel Morin

Winter-Spring 2010 programming of MusiquePlus effective 4 January 2010 to 23 May 2010

<p>Length: 30 min Program: Accorde ton look Description: It takes more than talent to break into today's music industry! Image is becoming one of an artist's biggest assets. Chéli and her team of seasoned experts give emerging artists a polished look. Schedule: Wednesday 1:00 p.m., Thursday 4:00 p.m., Friday 1:30 p.m., Sunday 8:30 a.m.</p>
<p>Length: 60 min Program: Artiste du mois Description: Every month, this program showcases a hot artist performing live in our studios. <i>Artiste du mois</i> is a MusiquePlus staple. Schedule: Monday midnight (120 min)</p>
<p>Length: 30 min Program: Clip Dub Description: MusiquePlus brings you the best and sometimes the worst music available on the Web! Host Rej Laplanche presents the best lip dub, dance, lip sync, human beat box and video spoof postings on the Internet. You will come across a few rare gems, but there will be plenty of duds, too. Schedule: Tuesday 1:00 p.m., Wednesday 9:00 a.m., Thursday 1:30 p.m., 2:30 p.m., Saturday 10:30 a.m., Sunday 8:00 a.m., midnight</p>
<p>Length: 30 min Program: Colocs.tv Saison 2 Description: Our two roommates, Alexandre and Billy, are plugging along as comedians. More determined than ever to become famous, each is now considering putting together his own one-man show. They have bought a triplex and... Schedule: Monday 4:30 p.m., 5:00 p.m., Wednesday 10:00 p.m., 10:30 p.m., Thursday 8:00 p.m., 8:30 p.m., Saturday 11:00 a.m., 11:30 a.m., Sunday 6:00 p.m., 6:30 p.m.</p>
<p>Length: 60 min Program: Coup de Rock [French-language version of <i>Rock of Love</i>] Description: Bret Michaels, colourful lead singer of the 80s glam metal band Poison, searches for a girlfriend. Schedule: Monday 10:00 p.m., Friday 11:00 p.m., Saturday 10:00 p.m., Sunday 8:00 p.m.</p>
<p>Length: 60 min Program: Danse ou crève! [French-language version of <i>America's Best Dance Crew</i>] Description: Hosted by Mario Lopez and Rachelle Leah, the second season of <i>Danse ou crève!</i> is a reality show in which 12 of the best street and studio dance troupes go head to head. One team is eliminated each week until only one is left standing and captures the coveted title of America's Best Dance Crew. Schedule: Wednesday 8:00 p.m., Friday 2:00 p.m., Saturday 9:00 p.m.</p>

<p>Length: 120 min Program: Décompte MusiquePlus Description: Nicolas Tittley and Tobie Bureau-Huot host the most varied and comprehensive music countdown! The week's Top 20 videos. Current hits from around the world. Top videos on musiqueplus.com. Schedule: Monday noon, Friday 7:00 p.m., 1:00 a.m., Saturday 3:00 p.m., Sunday 10:00 a.m. (240 min)</p>
<p>Length: 60 min Program: Duel Description: 20 ruthless competitors wage a fierce battle in a survival game set in the Brazilian jungle. One guy and one girl will complete all of the missions (one of which is living together) and win \$150,000. Bring it on! Schedule: Tuesday 10:00 p.m., Friday midnight, Sunday 10:00 p.m.</p>
<p>Length: 30 min Program: Funkmaster Flex Description: Hit musician Funkmaster Flex shares his passion for cars by taking us inside the garages of 10 celebrities! This new series of 10 30-minute episodes illustrates Funkmaster Flex's love for all things automotive. Funkmaster Flex visits with celebrities like Dale Earnhardt Jr., LL Cool J, Danica Patrick, 50 Cent, Terrell Owens, T-Pain, Jermaine Dupree, FatJoe and Jim Jones. A Chevy 55, a Camaro SS, a VW Beetle, a GTO, a 2010 Ford Mustang and an F-150 are among the featured vehicles. Viewers will also get an exclusive tour of Flex's enormous estate, including his cars, motorcycles, ATVs and snowmobiles. Schedule: Wednesday 9:00 p.m., Friday 5:00 p.m., Saturday 6:00 p.m.</p>
<p>Length: 30 min Program: Hogan a raison [French-language version of <i>Hogan Knows Best</i>] Description: The Hogans, undisputed champions of reality TV, are back for a third season. Dad has hung up his wrestling boots – although he still makes the odd appearance here and there – and is trying to make a name for himself in business marketing a new grill and an energy drink. His primary concern is guiding the career of his daughter Brooke, who has recorded her first album, one that she hopes will top the charts. To help Brooke along, the family is moving from the Tampa area to a swank villa in Miami. The new place is a bit of a step up from Hulk's home town, and every member of the family will have to adjust to the change. Mother Linda will spend her time decorating the house, meeting the neighbours and making sure the family pets settle in. Nick will spend his time on South Beach trying to impress the locals with his driftcar driving skills, with his sights set on becoming a national-level competitor. Schedule: Tuesday 10:00 a.m., Wednesday 1:30 p.m., Thursday 9:00 a.m.</p>
<p>Length: 30 min Program: Jackass Description: The circus in all its glory! Mad characters perform crude and ridiculous stunts and pranks. Johnny Knoxville, Steve-O, Bam Margera, Wee Man, Preston Lacy and the other sickos who make up the cast of Jackass have only one goal, and that is to be as outrageous as they can! No stunt is too stupid or too dangerous. It might look like tricks, but it's all very serious. Viewers beware! Schedule: Tuesday 5:00 p.m., 9:30 p.m., Sunday 11:00 p.m.</p>
<p>Length: 60 min Program: La playlist Schedule: Monday 8:00 a.m., 3:00 p.m., 2:00 a.m. (120 min), Tuesday 8:00 a.m., 3:00 p.m., 2:00 a.m. (120 min), Wednesday 8:00 a.m., 3:00 p.m., 2:00 a.m. (120 min), Thursday 8:00 a.m., 3:00 p.m., 2:00 a.m. (120 min), Friday 8:00 a.m., 3:00 p.m., 2:00 a.m., Saturday 12:30 a.m., Sunday 12:30 a.m.</p>

<p>Length: 60 min Program: La prochaine top modèle américaine [French-language version of <i>America's Next Top Model</i>] Schedule: Monday 2:00 p.m., 8:00 p.m., Tuesday 11:00 p.m., Wednesday 4:00 p.m., Thursday 10:00 p.m., Sunday 2:00 p.m.</p>
<p>Length: 30 min Program: La vraie vie? [French-language version of <i>The Real World</i>] Description: People's true nature is revealed when they are thrown together with strangers and their every move is caught on tape. Seven strangers leave their old lives behind and move to Key West to embark on an adventure where emotions run high and drama is the order of the day. Schedule: Tuesday 9:00 p.m., Saturday 7:00 p.m., Sunday 4:00 p.m.</p>
<p>Length: 30 min Program: Les Dudesons [French-language version of <i>Extreme Duudsonit</i>] Description: Les Dudesons is a Finnish series that has been on the air since 2001 and has become the most widely distributed Finnish program in history. A true combination of extreme stunts, comedy and reality TV, the series features the day-to-day lives of four best friends who lean toward anarchy and danger. Schedule: Monday 9:00 p.m., Tuesday 2:30 p.m., Thursday 5:00 p.m., 9:30 p.m., Friday 4:30 p.m.</p>
<p>Length: 30 min Program: L'univers MusiquePlus Description: From Monday to Thursday, Rej Laplanche presents a live music and entertainment program. L'Univers MusiquePlus offers 30 jam-packed minutes starting at 7:00 p.m. followed until 10:00 p.m. by a variety of spot segments. This unique and original new concept covers... Schedule: Monday 7:00 p.m., midnight (120 min), Tuesday 12:30 p.m., 7:00 p.m., midnight (120 min), Wednesday 12:30 p.m., 7:00 p.m., midnight (120 min), Thursday 12:30 p.m., 7:00 p.m., midnight (120 min), Friday 12:30 p.m.</p>
<p>Length: 30 min Program: M. Net Description: This outstanding technology magazine is back for its 11th season, and it's live again this year! Exclusive tours of the big video game studios. An in-depth look at the latest developments... Schedule: Monday 7:30 p.m., Tuesday noon, 7:30 p.m., Wednesday noon, 7:30 p.m., Thursday noon, 7:30 p.m., Friday noon</p>
<p>Length: 30 min Program: M. Net: Les meilleurs moments Schedule: Saturday noon, Sunday 7:30 p.m.</p>
<p>Length: 30 min Program: Masozen [French-language version of <i>Fist of Zen</i>] Description: This game show seeks to help wayward westerners find their path to enlightenment by having them face gruelling, uncomfortable and humiliating challenges in absolute silence! Schedule: Monday 9:30 p.m., Wednesday 5:00 p.m., Saturday 1:30 p.m.</p>

<p>Length: 30 min Program: Matche-moi m'man [French-language version of <i>Date My Mom</i>] Description: This one-of-kind show puts the saying "like mother, like daughter" to the test. In each episode, a guy looking for a fiancée date three mothers and chooses one of their daughters based on what they tell him about their daughters. Is it a tough choice? Probably, because the bachelor gets only one date with each mother to find out as much as he can about her daughter. Each episode ends with the two lovebirds meeting face to face. Did he choose a beautiful swan or an ugly duckling? Stay tuned! Schedule: Wednesday 10:00 a.m., Friday 10:30 a.m., Saturday 1:00 p.m.</p>
<p>Length: 30 min Program: MusiquePlus reçoit Schedule: Monday 9:00 a.m., Thursday 1:00 p.m., Friday 9:30 a.m. (60 min), 4:00 p.m., Saturday 12:30 p.m., 5:00 p.m.</p>
<p>Length: 30 min Program: Next! Description: One guy and one girl are given the opportunity to each go out with six people they have never met. At any point during the date, they can say "Next" and move on to the next contestant. Schedule: Tuesday 1:30 p.m., Wednesday 9:30 p.m., Saturday 7:30 p.m., Sunday 4:30 p.m.</p>
<p>Length: 30 min Program: Nitro Circus Description: Jackass producers Jeff Tremaine and Johnny Knoxville present their latest creation: Nitro Circus. The world's greatest freestyle motocross rider since he was 14 years old, Travis Pastrana has built himself an empire, Nitro Circus, by doing the impossible and breaking new ground. He started with video games and related products and now has a television series. Pastrana never stops: he has jumped out of an airplane without a parachute and was the first person in the world to do a dangerous double back-flip on a motorcycle. In Nitro Circus, he shares the stage with his equally crazy and zany friends: childhood friend and mountain bike pro Jim DeChamp, the unbeatable and charismatic loudmouth Andy Bell, extreme skier extraordinaire Erik Roner, female motocross sensation Jolene Van Vugt, and strapping funnyman Streetbike Tommy. This band of twisted, intense and insane riders makes this one of the most spellbinding programs of the past few years. Schedule: Wednesday 9:30 a.m., Thursday 9:00 p.m., Sunday 9:30 a.m., 11:30 p.m.</p>
<p>Length: 150 min Program: Palmarès Schedule: Monday 5:30 p.m., Tuesday 10:30 a.m., 5:30 p.m., Wednesday 10:30 a.m., 5:30 p.m., Thursday 10:30 a.m., 5:30 p.m., Friday 10:30 a.m., 5:30 p.m.</p>
<p>Length: 60 min Program: Paris un jour, Paris toujours! [French-language version of <i>My New BFF</i>] Description: Do you think you have what it takes to become Paris's new best female friend? Twenty contestants living under the same roof wage an all-out battle to live the good life with the famous heiress. Schedule: Wednesday 2:00 p.m., Thursday 9:30 a.m., 11:00 p.m., Saturday 2:00 p.m., Sunday 1:00 p.m.</p>
<p>Length: 30 min Program: Pimp mon char [French-language version of <i>Pimp My Ride</i>] Schedule: Tuesday 9:00 a.m., Saturday 9:00 a.m., 9:30 a.m., 6:30 p.m., Sunday 9:00 a.m., 5:30 p.m.</p>

<p>Length: 30 min Program: Punk'd Schedule: Monday 4:00 p.m., Tuesday 2:00 p.m., Saturday 10:00 a.m., 5:30 p.m., midnight, Sunday 7:00 p.m.</p>
<p>Length: 60 min Program: Rikki et Vikki célibes et bi [French-language version of <i>A Double Shot at Love</i>] Description: In "RIKKI ET VIKKI CELIBS ET BI" (a spinoff of Tila Tequila's <i>A Shot at Love</i>), 12 straight guys and 12 lesbians try to win over Rikki and Vikki, bisexual twins teaming up to look for love. It's a tough challenge, because none of the contestants knows at first that Rikki has a sister, which allows Vikki to switch places with her without anyone realizing. When the trick is revealed, the final two contestants will have to vie for the affections of both Rikki and Vikki. Two for the price of one! Schedule: Wednesday 11:00 p.m., Friday 9:00 p.m.</p>
<p>Length: 30 min Program: T.I.: La sentence [French-language version of <i>Rockin' Reality in Two Sentences</i>] Schedule: Tuesday 9:30 a.m., Friday 9:00 a.m., 1:00 p.m., Sunday 5:00 p.m.</p>
<p>Length: 30 min Program: The Hills: Princesses d'Hollywood [French-language version of <i>The Hills</i>] Description: Lauren "LC" Conrad (Laguna Beach: The Real Orange County) moves to Los Angeles, where she becomes an intern at Teen Vogue magazine and has to juggle work, school and her love life! Schedule: Monday 9:30 a.m., 10:00 a.m., Tuesday 4:00 p.m., 4:30 p.m., Thursday 2:00 p.m., 2:30 p.m., Saturday 8:00 a.m., 8:30 a.m., 8:00 p.m., 8:30 p.m., Sunday 3:00 p.m., 3:30 p.m.</p>
<p>Length: 60 min Program: Tila: Célib et bi [French-language version of <i>Tila Tequila's A Shot at Love</i>] Description: Tila Tequila is looking for a soul mate among 32 challengers: 16 straight men and 16 lesbians, and the cat is let out of the bag: Tila Tequila tells everyone she is bisexual. She has never revealed her secret to anyone before and says that even though she is attracted to both men and women, she is only looking for one person. This twist means that everyone will have to work even harder to avoid elimination. Schedule: Monday 11:00 p.m., Tuesday 8:00 p.m., Friday 10:00 p.m., Saturday 11:00 p.m., Sunday 9:00 p.m.</p>
<p>Length: 150 min Program: Vidéodose Schedule: Monday 4:00 a.m., Tuesday 4:00 a.m., Wednesday 4:00 a.m., Thursday 4:00 a.m., Friday 4:00 a.m., Saturday 1:30 a.m., 4:00 a.m., Sunday 1:30 a.m., 4:00 a.m.</p>
<p>Taken and translated from http://www.musiqueplus.com/grille</p>