



## Broadcasting Decision CRTC 2010-242

Route reference: 2009-803

Additional reference: 2009-803-1

Ottawa, 29 April 2010

### **Remstar Broadcasting Inc.**

Quebec

*Application 2009-1244-5, received 10 September 2009*

*Public Hearing in the National Capital Region*

*22 February 2010*

### **Génération V – Category 2 specialty service**

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

1. Remstar Broadcasting Inc. (Remstar) filed an application for a broadcasting licence to operate a national, French-language Category 2 specialty television programming undertaking to be known as Génération V. The service would provide programming devoted to short-form user-generated content (40 minutes maximum). Programming would be of a varied, interactive nature and would be particularly focused on entertainment (fashion, automotive, technology, opinions). The applicant also requested authorization to offer its service in high definition format.
2. Remstar is a company owned and controlled by Julien and Maxime Rémillard.
3. The Commission received interventions from Shaw Communications Inc. (Shaw) and Les Chaînes Télé Astral, a division of Astral Broadcasting Group Inc. (Astral). The interventions and the applicant's reply can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
4. After examining the application in light of applicable regulations and policies and taking into account the interventions received and the applicant's reply, the Commission considers that the issue to be determined is whether Génération V would compete directly with existing Category 1 or analog pay or specialty services.

### **Would Génération V compete directly with existing Category 1 or analog pay or specialty services?**

5. The Commission has implemented a competitive, open-entry approach to licensing Category 2 services. While the Commission does not consider the potential 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.

#### **Shaw's intervention and applicant's reply**

6. Shaw did not oppose the application but wished to state for the record its concern that any new Category 2 service must be licensed in a manner that is consistent with the streamlined, flexible framework introduced in Broadcasting Public Notice 2008-100. Specifically, Shaw indicated that the Commission should explicitly state that new Category 2 services cannot be granted mandatory distribution orders under section 9(1)(h) of the *Broadcasting Act* and cannot become Category 1 services with access rights.
7. In its response, Remstar claimed that Shaw's intervention refers to the issues raised in Broadcasting Notice of Consultation 2009-411 rather than to Remstar's application as such.

#### **Astral's intervention and applicant's reply**

8. In its comments, Astral noted that if the applicant's intention was to broadcast programming consisting entirely of programs provided by users, as the application implied, it considered the nature of the service to be effectively distinct from those of existing Category 1 and analog pay and specialty services and therefore saw no need for concern.
9. However, in the same comments, Astral referred to an article published in the newspaper *La Presse* on 15 January 2010 reporting comments made during an interview with Maxime Rémillard. According to Astral, the article stated that half of Génération V's programming schedule would consist of programs produced by the public, while the other half would be made up of regularly scheduled programs purchased by the broadcaster.
10. Astral considered that if the applicant actually intended for 50% of its programming to consist of professionally produced programming, while enjoying flexibility that would allow it to draw its programming from all program categories with the exception of a 15% limit on categories 7(a), 7(b) and 8(c), the proposed service would then depart from its nature of service and could compete directly with existing Category 1 or analog pay or specialty services.

11. In this context, Astral proposed that the nature of service be changed to the following:

The applicant will provide French-language Category 2 specialty programming, 95% of which will come from users and which will be devoted to the broadcast of short programs (of variable length not exceeding 40 minutes).

12. In its reply to Astral's intervention, the applicant stated that its proposed programming was sufficiently well defined in terms of its possible content. The applicant added that Astral's intervention referred to a journalist's statement in an article published by *La Presse* and that this article was in no way connected with its application.

### **Commission's analysis**

13. Since programming will consist of short-form user-generated programs (40 minutes maximum), the Commission considers the nature of the proposed service to be sufficiently defined to prevent it from competing directly with existing Category 1 or analog pay or specialty services. To ensure that programming is consistent with the definition of the nature of service, the Commission considers it appropriate to require that 95% of the programming be devoted to the broadcast of user-generated content. The Commission amends the nature of service accordingly in the conditions of licence. The Commission notes, however, that all of the programming broadcast must be directly related to the definition of the nature of service.

### **Implementation of the Commission's determinations regarding accessibility of services**

14. In Broadcasting Public Notice 2007-54, the Commission indicated that it would require all English- and French-language broadcasters to caption 100% of their programs, with the exception of advertising and promos. In Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy), the Commission noted that captioning technology, including voice recognition software – which is used extensively in captioning French-language programming – has greatly improved and should no longer be considered a technology in development. Consequently, in accordance with the Accessibility Policy, the Commission has set out a **condition of licence** requiring the licensee to:

- ensure that advertising, sponsorship messages and promos are closed captioned by no later than the fourth year of the licence term;
- adhere to the quality standards on closed captioning developed by television industry working groups, as amended from time to time and approved by the Commission; and
- implement a monitoring system to ensure that closed captioning is included in the broadcast signal and that captioning reaches the viewer in its original form.

15. In the Accessibility Policy, the Commission also indicated that it would continue to require conventional and Category 1 broadcasters to provide four hours of described video per week. However, the Commission determines that it is appropriate not to impose a condition of licence to that effect for Category 2 services at this time. Nonetheless, the Commission expects the service authorized in this decision to acquire and make available described versions of programming whenever possible.
16. Further, in that same policy, the Commission indicated that licensees would be required, by condition of licence, to provide audio description for all information programs, including news programming. A **condition of licence** to this effect is set out in the appendix to this decision.

### **Conclusion**

17. The Commission is satisfied that the application complies with the framework set out in Public Notice 2000-6 and with the applicable terms and conditions set out in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Remstar Broadcasting Inc. for a broadcasting licence to operate the national, French-language Category 2 specialty programming undertaking Génération V. The terms and **conditions of licence** are set out in the appendix to this decision.

### **Reminder**

18. The Commission reminds the applicant that distribution of this service is subject to the rules set out in Broadcasting Public Notice 2008-100.

Secretary General

### **Related documents**

- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *Policy proceeding on a group-based approach to the licensing of television services and on certain issues relating to conventional television* – Notice of hearing, Broadcasting Notice of Consultation CRTC 2009-411, 6 July 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *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 Web site:*  
<http://www.crtc.gc.ca>.

## Appendix to Broadcasting Decision CRTC 2010-242

### Terms, conditions of licence, expectations and encouragement for the Category 2 specialty programming undertaking Génération V

#### 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 29 April 2013. 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 2016.

#### 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 service will be devoted to the broadcast of short-form content (40 minutes maximum), 95% of the content of which will be user-generated. Programming will be of a varied, interactive nature and will be particularly focused on entertainment (fashion, automotive, technology, opinions).
3. The programming will 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 (a) Ongoing dramatic series  
(b) Ongoing comedy series (sitcoms)  
(c) Specials, miniseries or made-for-TV feature films

- (e) Animated television programs and films
  - (f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy
  - (g) Other drama
  - 8 (a) Music and dance other than music video programs or clips
  - (b) Music video clips
  - (c) Music video programs
  - 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 no more than 15% of all programming broadcast during the broadcast month to programming drawn from categories 7(a), 7(b) and 8(c).
  5. 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.
  6. 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.
  7. In accordance with *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009, the licensee shall:
    - ensure that advertising, sponsorship messages and promos in the English and French language are closed captioned by no later than the fourth year of the licence term;
    - adhere to the quality standards on closed captioning developed by television industry working groups, as amended from time to time and approved by the Commission; and
    - implement a monitoring system to ensure that, for any signal that is closed captioned, the correct signal is captioned, the captioning is included in its broadcast signal and this captioning reaches the distributor of that signal in its original form. "Original form" means, at a minimum, that the captioning provided by the licensee reaches the distributor unaltered, whether it is passed through in analog or in digital, including in high definition.

8. The licensee is authorized to make available for distribution an upgraded version of its service in high definition format, provided that not less than 95% of the video and audio components of the upgraded and standard definition version of the service are the same, exclusive of the commercial messages and of any part of the service carried on a subsidiary signal. All of the programming making up the 5% allowance shall be provided in high definition format.

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.

### **Expectations**

When captions are available, the Commission expects the licensee to provide viewers with a closed captioned version of all programming aired during the overnight period.

The Commission expects the licensee to acquire and make available described versions of programming whenever possible.

In regard to described programming, the Commission expects the licensee to:

- display a standard described video logo and air an audio announcement indicating the presence of described video before the broadcast of each described program; and
- make available to subscribers information regarding the described programs that it will broadcast.

### **Encouragement**

The Commission encourages the licensee to display the standard described video logo and air the audio announcement indicating the presence of described video following each commercial break.