



## Broadcasting Decision CRTC 2011-318

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Route reference: 2010-935

Ottawa, 13 May 2011

**7340362 Canada Inc.**  
Across Canada

*Application 2010-1466-2, received 9 September 2010  
Public Hearing in the National Capital Region  
11 March 2011*

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

*The Commission **approves**, with modifications, an application for a broadcasting licence to operate a new Category 2 specialty service.*

#### **The application**

1. 7340362 Canada Inc. (7340362 Canada) filed an application for a broadcasting licence to operate V MAX, a national, French-language Category 2 specialty programming undertaking that would be devoted to men's lifestyle. The service would broadcast programming on scathing humor and high-adrenaline action, and would be devoted to money, motor vehicles, sports, sexuality and reality TV. The service would focus on the interests and needs of men between the ages of 18 and 49. The Commission did not receive any interventions in connection with this application.
2. 7340362 Canada is wholly owned by Remstar Broadcasting Inc., a corporation jointly controlled by Julien and Maxime Rémillard.
3. The applicant proposed to draw programming for the proposed service from the following program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time: 2(a), 2(b), 3, 5(b), 6(a), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8, 9, 10, 11, 12, 13 and 14.
4. The applicant stated that it would accept conditions of licence limiting the amount of programming that could be drawn from program category 7 to 20% of the broadcast year and the amount of programming that could be drawn from each of program categories 2(b) and 6(a), as well as from categories 8(b) and 8(c) combined, to 10% of the broadcast year.

## Commission's analysis and determinations

5. After examining the application in light of applicable regulations and policies, the Commission considers that the issue to be addressed in its determinations is whether the proposed service is or could become directly competitive with existing Category A or analog pay or specialty services.<sup>1</sup>
6. In Broadcasting Public Notice 2008-100, the Commission stated that in most instances, the narrative descriptions of existing Category 1 and analog pay and specialty services (to be known as Category A services as of 31 August 2011) 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 A services to draw programming from all program categories, thereby providing these services with greater flexibility. However, to ensure that this change did not permit services to morph into other established programming genres and thus become directly competitive with other Category A 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; and
  - 8(b) and (c) combined – Music video clips and Music video programs.
7. In Broadcasting Public Notice 2008-100, the Commission stated that it did not intend to apply a similar approach to Category 2 services. Instead, it indicated that in assessing applications for new Category 2 services or applications for amendments to the nature of service or conditions of licence for such services, it would generally apply the same limitations. In the present case, the Commission finds it appropriate to grant such program flexibility to the Category 2 service V MAX.
8. The Commission notes that the applicant's proposed programming limitations with respect to program categories 2(b), 7(d), 7(e), as well as 8(b) and 8(c) combined, do not adhere to the limitations set out in Broadcasting Public Notice 2008-100. The Commission finds it appropriate to add the following standardized limitations to ensure that the service does not become competitive with any Category A service:
  - The licensee shall not devote more than 10% of programming broadcast during each broadcast month to programming drawn from each of program categories 2(a) and 6(a).

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<sup>1</sup> As set out in Broadcasting Public Notice 2008-100, Category 1 and analog pay and specialty services (services that have access rights) will be renamed Category A services effective 31 August 2011. The term "Category A" is used in this decision to encompass Category 1 and analog pay and specialty services.

- The licensee shall not devote more than 10% of the programming broadcast during each broadcast month to programming drawn from program category 7.
  - The licensee shall not devote more than 10% of the programming broadcast during each broadcast month to programming drawn from program categories 8(b) and 8(c) combined.
9. The programming broadcast must be directly related to the nature of service definition to ensure that the service does not become competitive with any existing category A service.
10. In light of the above, the Commission is satisfied that the application complies with the frameworks set out in Public Notice 2000-6 and Broadcasting Public Notice 2008-100, with the approaches set out in Broadcasting Public Notices 2003-61 and 2006-74, and with all applicable terms and conditions set out in Public Notice 2010-786. The Commission is of the view that the licence should be subject to the programming limitations set out in Broadcasting Regulatory Policy 2008-100. Accordingly, the Commission **approves**, with modifications, the application by 7340362 Canada Inc. for a broadcasting licence to operate the national, French-language Category 2 specialty programming undertaking V MAX. The terms and **conditions of licence** are set out in the appendix to this decision.

### Reminder

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

Secretary General

### Related documents

- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-786, 25 October 2010
- *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
- *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.*

## Appendix to Broadcasting Decision CRTC 2011-318

### Terms and conditions of licence for the Category 2 specialty programming undertaking V MAX

#### 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 and has provided the Commission with a launch date for the service. The undertaking must be operational at the earliest possible date and in any event no later than 48 months from the date of this decision.

The licence will expire 31 August 2017.

#### Conditions of licence

1. The licence will be subject to the conditions set out in *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-786, 25 October 2010.
2. The licensee shall provide a national French-language Category 2 specialty programming undertaking that will be devoted to men's lifestyle. The service will broadcast programming on scathing humor and high-adrenaline action, and will be devoted to money, motor vehicles, sports, sexuality and reality TV. The service will focus on the interests and needs of men between the ages of 18 and 49.
3. The programming shall be drawn exclusively from the following program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
  - 2 (a) Analysis and interpretation  
(b) Long-form documentary
  - 3 Reporting and actualities
  - 5 (b) Informal education/Recreation and leisure
  - 6 (a) Professional sports
  - 7 Drama and comedy
    - (a) Ongoing dramatic series
    - (b) Ongoing comedy series (sitcoms)
    - (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, 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
  - 9 Variety
  - 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 not devote more than 10 % of the programming broadcast during each broadcast month to programming drawn from each of program categories 2(a) and 6(a).
  5. The licensee shall not devote more than 10 % of the programming broadcast during each broadcast month to programming drawn from program category 7.
  6. The licensee shall not devote more than 10% of the programming broadcast during each broadcast month to programming drawn from program categories 8(b) and 8(c) combined.
  7. 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.