



Broadcasting Decision CRTC 2011-357

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Route reference: 2010-935

Ottawa, 1 June 2011

7340362 Canada Inc.

Across Canada

Application 2010-1461-2, received 9 September 2010

Public Hearing in the National Capital Region

11 February 2011

BELLA TV – Category 2 specialty service

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

The application

1. 7340362 Canada Inc. (7340362 Canada) filed an application for a broadcasting licence to operate BELLA TV, a national, French-language Category 2 specialty programming undertaking devoted to family and interpersonal relationships, fashion, beauty, trends, lifestyles and good living at home. The service would focus on the interests and needs of women between the ages of 18 and 34.
2. 7340362 Canada is owned by Remstar Broadcasting Inc., a corporation jointly owned and controlled by Julien and Maxime Rémillard.
3. The applicant proposed to draw programming for the 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), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 8(b), 8(c), 9, 10, 11, 12, 13 and 14.
4. The applicant indicated that it would accept conditions of licence according to which a maximum of:
 - 15% of programming broadcast during the broadcast year would be devoted to programming drawn from categories 2(b), 7(e), 8(a), 8(b) and 10;
 - 25% of programming broadcast during the broadcast year would be devoted to programming drawn from category 7(d);
 - 15% of programming drawn from category 11 and broadcast during the broadcast year would be devoted to programs focusing on the world of “showbiz” and stars of television and cinema; and

- 15% of programming broadcast during the broadcast year would be devoted to one of the following genres: fashion, health and well-being, travel, food or home and garden.

Interventions

5. The Commission received an intervention in opposition to this application from Astral Broadcasting Group Inc. (Astral) to which the applicant replied. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determination

6. After examining the application, the intervention and the reply 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 any existing Category A or analog pay or specialty services.¹
7. Astral indicated that BELLA TV's nature of service definition is nearly identical to that of Canal Vie and that it duplicates the latter's themes as a whole. In its reply, 7340362 Canada argued that BELLA TV's nature of service is sufficiently specific to prevent the latter from being competitive with Canal Vie. The applicant also indicated that the proposed service is mainly directed to the interests and needs of women between the ages of 18 and 34, while the nature of service approved for Canal Vie is directed to the entire population, women as much as men.
8. The Commission notes that BELLA TV's programming would be devoted to family and interpersonal relationships, fashion, beauty, trends, lifestyles and good living at home. Furthermore, this service would focus on the interests and needs of women between the ages of 18 and 34. Consequently, the Commission finds that BELLA TV's proposed nature of service definition is sufficiently specific to prevent this service from being directly competitive with any existing Category A service, including Canal Vie, whose nature of service is not directed to any specific audience and gender.
9. Furthermore, in Broadcasting Public Notice 2008-100, the Commission stated that in most instances, the narrative descriptions of existing Category 1 and analog pay and speciality 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

¹ As set out in Broadcasting Public Notice 2008-100, Category 1 and analog pay and speciality 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.

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(d) Theatrical feature films aired on television;
- 7(e) Animated television programs and films;
- 8(b) and (c) combined – Music video clips and Music video programs.

10. 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 BELLA TV.

11. 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 therefore finds it appropriate to add the following standardized limitations to ensure that the service does not morph into a service that would be competitive with any Category A service:

- The licensee shall not devote more than 10% of the programming broadcast during each broadcast month to programming drawn from program category 2(b).
- 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.

12. Moreover, the Commission notes that the applicant indicated that it would be willing to accept the imposition of additional conditions of licence to limit the type of programming broadcast. Consequently, the broadcasting licence will also be subject to the following conditions of licence:

- The licensee shall devote a maximum of 15% of programming drawn from program category 11 and broadcast during the broadcast year to programs focusing on the world of "showbiz" and stars of television and cinema.
- The licensee shall devote a maximum of 15% of programming broadcast during the broadcast year shall to one of the following genres: fashion, health and well-being, travel, food or home and garden.

13. While the applicant indicated that it would be willing to accept a condition of licence limiting programming drawn from categories 8(a) and 10, the Commission does not find it appropriate to impose a condition of licence to that effect.
14. The Commission reminds the licensee that 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.
15. 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 Broadcasting Public Notice 2010-786. 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 BELLA TV. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminder

16. 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 2011-357

Terms and conditions of licence for the Category 2 specialty programming undertaking BELLA 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 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 devoted to family and interpersonal relationships, fashion, beauty, trends, lifestyles and good living at home. The service shall focus on the interests and needs of women between the ages of 18 and 34.
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
 - 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 program category 2(b).
 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. The licensee shall devote a maximum of 15% of programming drawn from program category 11 and broadcast during the broadcast year to programs focusing on the world of “showbiz” and stars of television and cinema.
 8. The licensee shall devote a maximum of 15% of programming broadcast during the broadcast year to one of the following genres: fashion, health and well-being, travel, food or home and garden.

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.