



Broadcasting Decision CRTC 2011-83

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Route reference: 2010-746

Ottawa, 10 February 2011

GlassBox Television Inc.
Across Canada

Application 2010-1210-4, received 30 July 2010

AUX TV – Licence amendment

*The Commission **denies** an application to amend the broadcasting licence for the national, English-language Category B specialty service AUX TV in order to delete the condition of licence limiting to 35% the amount of programming that the service may draw from program category 8(b) Music video clips.*

Introduction

1. The Commission received an application by GlassBox Television Inc. (GlassBox) to amend the broadcasting licence for the national, English-language Category B¹ specialty programming undertaking AUX TV.² Specifically, GlassBox proposed to delete condition of licence 5, set out in Broadcasting Decision 2009-121, which states the following:

No more than 35% of all programming broadcast during the broadcast month shall be drawn from category 8(b). [Music video clips]

2. The licensee submitted that this condition of licence is not required in light of an application submitted by CTV Limited (CTV), in which CTV sought to reduce from 50% to 25% of the broadcast week the amount of programming drawn from program category 8(b) for broadcast on the national, English-language Category A specialty programming service MuchMusic.³ GlassBox further argued that similar limits are not imposed on other Category B music services.

¹ As set out in Broadcasting Public Notice 2008-100, effective 31 August 2011, Category 2 services will be renamed Category B services, and Category 1 and analog pay and specialty services will be renamed Category A services.

² As set out in Broadcasting Decision 2009-121, AUX TV is devoted to emerging music and its creation, including programming featuring emerging music and aimed at helping emerging musicians.

³ As discussed below, in Broadcasting Decision 2010-875, the Commission denied this element of CTV's application.

3. The Commission received an intervention in opposition from an individual, which did not directly relate to the substance of the present application. 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

4. After examining the application in light of applicable regulations and policies, the Commission considers that the primary issue to be addressed in making its determination is whether the proposed amendment would permit AUX TV to be directly competitive with existing Category A services and in particular with MuchMusic.
5. As set out in Broadcasting Decision 2010-875, the Commission denied CTV's request to reduce MuchMusic's minimum required exhibition of music video clips broadcast over the broadcast week from 50% to 25%. The Commission noted that approval of that licence amendment (along with other amendments proposed by CTV) would have called into question the integrity of the Category A licensing framework, which requires services to be complementary and not compete directly with one another. It further noted that it would be more appropriate to consider the proposed amendment in the context of MuchMusic's next licence renewal. In regard to the present application, the Commission considers that the deletion of AUX TV's condition of licence limiting the amount of programming drawn from program category 8(b) could permit the service to become directly competitive with the Category A service MuchMusic.
6. Accordingly, the Commission **denies** the application by GlassBox Television Inc. to amend the broadcasting licence for the national, English-language Category B specialty programming undertaking AUX TV in order to delete its condition of licence 5 limiting to 35% the amount of programming that the service may draw from program category 8(b).

Other matters

7. The Commission notes that, in Broadcasting Public Notice 2008-100, it stated that it would be prepared to introduce competition in those programming genres for which it is convinced that a competitive environment would not significantly reduce either the diversity of services available to viewers or these services' contributions to the creation of Canadian programming. The Commission further indicated that it is prepared to consider competitive applications in genres not currently open for competition, should an applicant demonstrate that the genre meets the criteria outlined in paragraph 270 of that public notice.

Secretary General

Related documents

- *MuchMusic – Licence amendments*, Broadcasting Decision CRTC 2010-875, 25 November 2010

- *AUX TV – Category 2 specialty service*, Broadcasting Decision CRTC 2009-121, 6 March 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008