



## Broadcasting Decision CRTC 2012-149

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Route reference: 2011-595

Additional reference: 2011-595-2

Ottawa, 14 March 2012

### **Canyon.TV, Incorporated**

Across Canada

*Application 2011-0948-9, received 15 June 2011*

*Public hearing in the National Capital Region*

*21 November 2011*

### **Canyon Music TV – Specialty Category B service**

*The Commission **denies** an application for a broadcasting licence to operate a new specialty Category B service.*

#### **The application**

1. Canyon.TV, Incorporated (Canyon.TV) filed an application for a broadcasting licence to operate Canyon Music TV, a national, English-language specialty Category B service that would broadcast music videos and music video programming from a range of current musicians as well as from musicians of previous years. The applicant stated that the music programming would span all music genres but would consist mainly of pop, rock, and rhythm and blues. The service would also broadcast music shows such as Canyon TV CentreStage, which would be one of a range of live concerts featuring one or more musicians performing to a live crowd, and which may be live or pre-recorded.
2. Canyon.TV is owned and controlled by Mr. Warren Walsh, a Canadian within the meaning of the *Direction to the CRTC (Ineligibility of non-Canadians)*.
3. The applicant proposed to draw programming 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: 1, 8(a), 8(b) and 8(c).
4. Canyon.TV stated that Canyon Music TV would partially distinguish itself from competitors such as MTV or MuchMusic in that it would only broadcast music-related programming and music videos. It further stated that the proposed service would also differ somewhat from Country Music Television (CMT) in that the programming genres for Canyon Music TV are mainstream and country music.

5. The Commission received an intervention in opposition to this application from Bell Media Inc. (Bell Media), to which the applicant did not reply. The public record for this application can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

### **Commission's analysis and decisions**

6. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issue it must address is whether Canyon Music TV would be directly competitive with existing Category A services.<sup>1</sup>
7. In Public Notice 2000-6, the Commission implemented a competitive, open-entry approach to licensing Category 2 (Category B) services. While the Commission does not consider the impact that a Category B service might have on an existing Category B service, it does seek to ensure that Category B services do not compete directly with any existing Category A services.
8. In Public Notices 2000-171 and 2000-171-1, the Commission adopted a case-by-case approach to determining whether a proposed Category B service should be considered directly competitive with an existing Category A 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.
9. In its intervention, Bell Media submitted that the proposed service would be directly competitive with its services MuchMusic and/or MuchMoreMusic. In this regard, it noted the following:
  - The proposed service would be entirely focused on mainstream and current music. MuchMusic and MuchMoreMusic consist only of music and music-related programming, including pop, rock, and rhythm and blues music.
  - The proposed service would draw its programming exclusively from program categories 1 and 8. MuchMusic is required to devote at least 50% of its programming to music video clips (program category 8(b)) and MuchMoreMusic is required to devote at least 50% of its programming to music video clips and music video programs (program categories 8(b) and 8(c), respectively).
  - The proposed service would offer live concert programs, which can readily be found on MuchMusic and MuchMoreMusic.

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<sup>1</sup> In accordance with Broadcasting Public Notice 2008-100, as of 31 August 2011, Canadian analog and Category 1 pay and specialty services – services with access rights – are known as Category A services. The term "Category A" is used in this decision to encompass Category 1 or analog pay or specialty services.

- This would result in more than 50% of potentially duplicative programming between Bell Media's services and the proposed service.
  - It is unclear whether Canyon Music TV would be targeted to a young adult audience and/or an adult audience and, therefore, whether it could be competitive with Bell Media's services from an audience standpoint.
10. The Commission considers that the Canyon Music TV's proposed nature of service is not sufficiently distinct to differentiate it from Category A services.
- Like MuchMusic, MuchMoreMusic and CMT, the proposed service would consist predominantly of music videos and music-related programming.
  - The applicant did not identify a specific music genre for the proposed service that could distinguish it from the mainstream Category A music services.
  - Although the applicant proposed to broadcast concerts, it did not specify whether concerts would be predominant in the programming grid in order to distinguish the proposed service from Category A music services.
  - The applicant did not identify a target audience for its service, which could have distinguished Canyon Music TV from MuchMoreMusic.
11. The Commission also has concerns regarding the lack of limits on the programming to be drawn from the proposed program categories for the service.
12. In Broadcasting Public Notice 2008-100, the Commission allowed for greater flexibility for Category A services by allowing them to draw their programming from all program categories. In that public notice, it also established standard limitations on the broadcast of programs from certain program categories in order to prevent the services from becoming directly competitive with other Category A services. The Commission stated that it would generally apply the same limitations in assessing applications for new services.
13. In order to prevent services from competing with music-based Category A services such as MuchMusic and MuchMoreMusic, the Commission limits the broadcast of programming drawn from program categories 8(b) and 8(c) combined to 10% of the broadcast month.
14. As noted above, Canyon.TV proposed to draw programming for Canyon Music TV exclusively from program categories 1, 8(a), 8(b) and 8(c). The Commission notes, however, that the applicant did not propose any limits on programming to be drawn from program categories 8(b) and 8(c); in fact, it proposed to draw a majority of its programming from those two program categories. Furthermore, Canyon.TV did not explain why it should not be subject to limits on programming drawn from those program categories. In addition, the Commission considers that, based on the

application submitted by Canyon.TV, it is not clear whether it would be feasible to operate the proposed service under such limits.

## **Conclusion**

15. In light of all of the above, the Commission determines that the proposed Category B service would compete directly with MuchMusic, MuchMoreMusic and CMT. Accordingly, the Commission **denies** the application by Canyon.TV, Incorporated for a broadcasting licence to operate the national, English-language specialty Category B service, Canyon Music 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
- *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001
- *Introductory statement – Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000
- *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000