



## Broadcasting Decision CRTC 2014-465

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Route reference: 2014-282

Ottawa, 11 September 2014

**MusiquePlus inc.**  
Across Canada

*Applications 2013-1803-0 and 2014-0063-9, received 20 December 2013 and 21 January 2014*

### **MusiquePlus and MusiMax – Change in effective control and licence amendments**

*The Commission **approves**, subject to certain modifications and conditions, an application filed by Groupe V Média inc. (Groupe V), on behalf of MusiquePlus inc., for authority to change the ownership and effective control of MusiquePlus inc. to Groupe V. MusiquePlus inc. is the licensee of the French-language specialty Category A services MusiquePlus and MusiMax. They are the last two services of which BCE Inc. was required to divest itself as part of the BCE-Astral transaction.*

*The Commission considers that the transaction as modified in this decision is in the public interest and contributes to fulfilling the objectives of the Broadcasting Act as it will foster competition in the French-language market and ensure the continued availability of a major showcase for Canadian musical talent.*

*The Commission also **approves**, subject to certain modifications, an application by Groupe V, on behalf of MusiquePlus inc., to amend certain conditions of licence relating to MusiquePlus and MusiMax programming. The **conditions of licence** as modified by the Commission are set out in the appendices to this decision.*

*The Commission considers that the flexibility granted to MusiquePlus inc. with respect to the conditions of licence for both services will enable Groupe V to effect a quicker and more sustainable turnaround as it relates to the financial situation of MusiquePlus inc. MusiquePlus and MusiMax are important promotional tools for Canadian music artists, and the Commission is of the view that the licence amendments as modified by the Commission will provide the flexibility needed to successfully address MusiquePlus inc.'s financial situation.*

## Introduction

1. Groupe V Média inc. (Groupe V) filed applications on behalf of MusiquePlus inc. in order to:
  - obtain authority to change the effective control of MusiquePlus inc. from the trustee Mr. Pierre Boivin to Mr. Maxime Rémillard (application 2013-1803-0); and
  - amend certain conditions of licence relating to the programming of MusiquePlus and MusiMax (application 2014-0063-9).
2. Groupe V is a privately-owned company of the Remstar ownership group (Remstar Group), the majority of which is held by Mr. Rémillard, who exercises control. This company also holds V Interactions inc., licensee of the V network.
3. MusiquePlus inc. is a wholly owned subsidiary of Bell Media Inc. (Bell), a subsidiary of BCE Inc. (BCE), and is currently under the control of Mr. Boivin, pursuant to the voting trust agreement approved by the Commission in a letter of authority dated 27 June 2013.
4. This transaction is further to the BCE-Astral transaction (Broadcasting Decision 2013-310), in which the Commission approved an application by Astral Media Inc. (Astral) for authority to change the effective control of its broadcasting undertakings to BCE, while directing BCE to divest itself of certain services, including MusiquePlus and MusiMax. They are the last services of which BCE must divest itself in the context of the BCE-Astral transaction.
5. MusiquePlus inc. is the licensee of the following national, French-language specialty Category A services:
  - MusiquePlus, a service devoting at least 90% of its programming to music-related programming;
  - MusiMax, a service targeting an adult audience and devoted to music in all its forms, its works, its history and personalities.
6. The Commission received many interventions supporting the applications, as well as interventions offering comments by the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) and the production companies Avalanche and TANDEM.MU, both of which supported ADISQ's comments and recommendations. The Commission also received an opposing intervention by Ms. Keithy Antoine, a television and radio host. Groupe V replied to ADISQ's intervention, underscoring the comments submitted by other interveners in support of its applications. The interventions and Groupe V's reply are discussed later in this decision. The public record for this proceeding can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the application numbers set out above.

## **Application for a change in effective control (2013-1803-0)**

### **Transaction**

7. On 20 December 2013, Groupe V filed an application on behalf of MusiquePlus inc. for authority to change the effective control of MusiquePlus inc. from the trustee Mr. Boivin to Mr. Rémillard, majority shareholder and chief executive officer of Groupe V. This transaction will take place in two steps.

#### ***First step***

8. Groupe V will acquire all of the issued and outstanding shares of MusiquePlus inc.'s share capital. Subsequent to this, Mr. Rémillard will hold through subsidiaries a 91.26% voting interest in MusiquePlus inc. The remaining voting interest of 9.74% will be held by Fiducie Seismikmax, a trust controlled by Mr. Rémillard, its sole trustee. All of the issued and outstanding share capital of MusiquePlus inc. will therefore be indirectly controlled by Mr. Rémillard.

#### ***Second step***

9. This step will take place before the completion of the first step and will be accomplished by adding three minority shareholders (investment companies), which will allow Groupe V to raise the necessary capital to purchase MusiquePlus inc. Each investor will acquire voting and non-participating preferred shares that at any time may be converted into voting and participating common shares. Each preferred share entitles the holder to one vote. This transaction does not require any prior approval by or notification of the Commission as each additional shareholder will acquire 15% of the voting shares, in accordance with subsections 10(4) and 10(5) of the *Specialty Services Regulations, 1990*.
10. Following this second step, voting shares will be divided as follows:
  - 55% to Mr. Rémillard through the following entities:
    - Remstar Broadcasting Inc. (15,068,943 common shares)
    - Fiducie Seismikmax (4,931,057 common shares)
    - Remstar Broadcasting Inc. (7,500,000 preferred shares)
  - 45% divided equally between three investment companies (each with 7,500,000 preferred shares).
11. Groupe V indicated that if certain financial objectives are met in 2015 and 2016, and provided that each of the three investors agrees to surrender 666,667 preferred shares to Remstar Broadcasting Inc., Mr. Rémillard's ultimate shareholding may increase to 59% within two years. This means that the share portion of each investment company

would decrease to 13.67% of the voting rights. This transaction would therefore not require prior Commission approval.

12. Following the close of the transaction, MusiquePlus inc. will be controlled by Mr. Rémillard.
13. With respect to this application, the Commission has addressed the following issues:
  - the transaction's impact on the Canadian broadcasting system and the resulting intangible benefits;
  - the value of the transaction;
  - the proposed tangible benefits resulting from the transaction;
  - other considerations related to the transaction.

### **Impact of the transaction**

14. Groupe V submitted that MusiquePlus and MusiMax are experiencing financial difficulties because they had accumulated losses in the past five years. Groupe V also stated that the future of the services is uncertain because of their natures of service. In this regard, interveners noted that the Internet's growing popularity has considerably changed the viewing habits of Canadians, who are increasingly turning to platforms other than conventional television to view content (for example, music videos).
15. The Commission recognizes that the accumulated debt of the two services is considerable despite advantages related to their status as specialty Category A services. According to Numeris (formerly BBM Canada) data, the market shares of the two services dropped significantly between 2008 and 2013.
16. The Commission notes that although Groupe V's market shares have grown over recent years, they remain modest and few buyers have shown an interest in acquiring MusiquePlus and MusiMax. Further, the fact that new institutional investors have chosen to support Groupe V, whether the application to amend the conditions of licence is approved or denied, is a favourable indicator of their confidence in Groupe V as a buyer.
17. An overwhelming majority of interveners noted that Groupe V successfully addressed TQS's financial situation (which it relaunched under the name V). Further, Groupe V has historically broadcast independent productions on the service. In the Commission's view, this experience is an asset for Groupe V as a buyer, especially considering the importance of MusiquePlus and MusiMax for the promotion of Canadian artists.
18. In light of the above, the Commission finds that Groupe V is the right buyer for MusiquePlus and MusiMax. In the Commission's view, this transaction is in the public interest and contributes to meeting the objectives of the *Broadcasting Act*

(the Act) because it will foster competition in the French-language market and ensure the continued availability of a major showcase for Canadian musical talent.

### **Value of the transaction**

19. The share purchase agreement provides for a purchase price of \$15,520,000 and contains provisions according to which Bell will purchase \$1.5 million in advertising from Groupe V, which will be paid in advance, at the close of the transaction. The applicant has thus deducted the advertising amount from the purchase price and set the value of the transaction at \$14,020,000.
20. The share purchase agreement also provides that Groupe V will pay Bell an earn-out for each of the 2014, 2015 and 2016 financial years if advertising revenues reach at least 80% of the 2013 level. Where applicable, an earn-out will be based on a predetermined formula, which has no ceiling.
21. According to Groupe V's forecasts, the services would reach the 80% threshold in 2015 and 2016 if operated under the current conditions of licence (that is, if the Commission denies the proposed licence amendments). Groupe V argued that the earn-outs should not be included in the value of the transaction given their uncertain nature. However, in the event that the Commission decides to include them, it suggested that an amount equal to 10% of the earn-outs actually paid be added to the tangible benefits. Groupe V proposed that this obligation be imposed as a condition of licence and that this amount be paid over a seven-year period beginning in 2017.
22. Groupe V suggested that the value of assumed leases be excluded from the value of the transaction because the purchase price already takes this item into account. It added that the purchase price would have been lower if it had been required to move the offices of MusiquePlus and MusiMax. Moreover, the applicant indicated that it would not be assuming any debt.

### **Commission's analysis**

23. The Commission notes that the purchase and sale of advertising is part of the normal course of business and is not an item that can change the nature of the agreement. It therefore considers that the amount of \$1.5 million in advertising paid in advance by Bell should not be deducted from the value of the transaction. Consequently, the Commission sets the purchase price at \$15,520,000 for the purpose of determining the value of the transaction.
24. Further, since the Commission determines the value of the transaction as of the date of the transaction, it has adjusted the amount of the working capital, which Groupe V estimated to be \$4,458,000 based on the share purchase agreement. The working capital amounted to \$5,720,594 as of the date of the transaction, a difference of \$1,262,594.
25. Moreover, the Commission's general practice is to include the full amount of earn-outs in the value of the transaction, despite their uncertain nature. The Commission

also notes that Groupe V intends to reach the 80% threshold even if the Commission does not approve the proposed amendments to the conditions of licence. Since, as discussed later in this decision, the Commission approves the proposed programming amendments with some changes, it is confident that the advertising revenues will reach 100% of the 2013 threshold. Based on this assumption, the Commission has added \$1,159,500 for each of the 2014, 2015 and 2016 financial years (for a total of \$3,478,500), in accordance with the formula in the share purchase agreement.

26. The Commission's general practice regarding assumed leases is to include them in determining the value of the transaction. Accordingly, the Commission has added \$2,610,992, the value of the assumed leases, to the value of the transaction.
27. Taking into account the above-mentioned adjustments, the Commission determines that the value of the transaction amounts to \$22,872,086.

#### **Value of the transaction**

<b>Purchase price</b>	<b>\$15,520,000</b>
Working capital adjustment	\$1,262,594
<b>Adjusted purchase price</b>	<b>\$16,782,594</b>
Additions:	
Earn-outs	\$3,478,500
Assumed leases	\$2,610,992
<b>Total</b>	<b>\$6,089,492</b>
<b>Value of the transaction</b>	<b>\$22,872,086</b>

#### **Proposed tangible benefits**

28. As set out in Public Notice 1999-97 and reiterated in Broadcasting Public Notice 2007-53, for changes in ownership or control involving programming undertakings, the Commission generally expects applicants to make clear and unequivocal commitments to provide tangible benefits for the broadcasting system. For television programming undertakings, including conventional, pay and specialty undertakings, the Commission generally expects the proposed contributions to represent 10% of the value of the transaction as determined by the Commission. These benefits must benefit the communities served as well as the broadcasting system as a whole.

29. Further, to be considered a benefit, the proposed contribution must be incremental (that is, it must be directed to projects and initiatives that would not be undertaken or realized in the absence of the transaction). The contribution must also flow predominantly to third parties, such as independent producers. The Commission's general approach is that the majority of benefits (approximately 85%) be directed towards on-screen programming, with the remainder being devoted to social benefits.
30. In its application, Groupe V proposed a tangible benefits package amounting to \$1,402,000, or 10% of the proposed value of the transaction, to be paid over three years. It proposed to distribute the tangible benefits as follows:
- 85.6% to the production of on-screen programming – The production of music-related programs for broadcast on MusiquePlus or MusiMax that fall under programs of national interest (PNI) categories and that are independently produced.
  - 14.4% to a music video clip production fund – Amounts used to produce and promote music videos would be in addition to the annual contributions that MaxFACT currently receives. However, Groupe V stated its intention to replace this fund with its own new certified independent production fund (CIPF), to be known as the Remstar Fund. This new fund would have the same purpose as MaxFACT, to encourage the production and promotion of music videos.
31. Groupe V indicated that if the Commission increased the value of the transaction, it intended to transfer any additional tangible benefits to the funding of on-screen PNI projects. In this regard, ADISQ submitted that additional tangible benefits should instead be allocated according to an 85%/15% formula. In reply, Groupe V stated that it was prepared to use the allocation formula suggested by ADISQ.
32. ADISQ also stated that tangible benefits directed towards on-screen programming should only be related to programs from program category 8(a) Music and dance other than music video programs or clips that would feature professional artists. In reply, Groupe V reiterated its position that tangible benefits for on-screen programs would be directed programs falling under the PNI categories, including program category 8(a). However, Groupe V stated that it was willing to amend some provisions of the letter of agreement between MusiquePlus inc. and ADISQ dated 5 July 2012 so that the agreed percentages of prime time programming on MusiquePlus and MusiMax include programs from program category 8(a) for the rest of the duration of the agreement.
33. In addition, ADISQ indicated that it wanted to discuss with Groupe V the implementation and management of the new CIPF. In reply, Groupe V stated that it wished to make its own decisions concerning the creation and administration of the new Remstar Fund.

34. Moreover, Bell will pay the outstanding balance of tangible benefits stemming from the acquisition by Astral of 50% of MusiquePlus inc. in 2007.<sup>1</sup> A verification of this payment will be carried out in the context of the licence renewal proceeding for the two services in 2017.

#### **Commission's analysis**

35. In light of the revised value of the transaction, the Commission **directs** MusiquePlus inc. to pay tangible benefits amounting to \$2,287,200 (10% of the Commission's revised value of \$22,872,086).
36. The Commission notes that tangible benefit expenditures must be incremental to what the applicant would usually spend under its conditions of licence and to the normal cost of doing business. Since Groupe V's tangible benefit proposal for on-screen programming provides for productions that would benefit MusiquePlus and MusiMax, the Commission considers that this type of expenditure corresponds to the normal cost of doing business, particularly in the context of revamping the services. The Commission therefore finds that Groupe V's tangible benefits proposal is inappropriate.
37. Consequently, as a **condition of approval**, the Commission **directs** MusiquePlus inc. to submit, no later than **30 days following this decision**, a new tangible benefits proposal amounting to at least 10% of the value of the transaction as revised by the Commission. If approved by the Commission, the Remstar Fund may be an appropriate vehicle for the use of tangible benefits.
38. The Commission notes that it published a new policy relating to tangible benefits proposals on 5 September 2014 (see Broadcasting Regulatory Policy 2014-459). The Commission urges MusiquePlus inc. to develop its new proposal in keeping with that policy.
39. The Commission notes Groupe V's willingness to amend the letter of agreement between MusiquePlus inc. and ADISQ. The Commission considers this commitment reasonable. Clarifications in this regard are set out in the appendices to this decision.

#### **Other considerations related to the transaction**

40. The Commission notes Groupe V's attestation that a purchase agreement involving additional investors will soon be finalized. To date, the Commission has reviewed only two letters of offer between the parties to ensure that prior authorization was not required. The applicant has yet to submit the final agreement to the Commission, which contains the identity of all the investment firms.
41. Consequently, as a **condition of approval**, the Commission **directs** MusiquePlus inc. to submit, no later than **30 days following this decision**, an executed share purchase agreement. The Commission also expects the provisions of the agreement to be

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<sup>1</sup> See Broadcasting Decision 2007-99.

essentially and substantially the same as those contained in the prospective investors' letters of offer placed on the public record.

### **Application to amend conditions of licence (2014-0063-9)**

42. Groupe V also filed an application on behalf of MusiquePlus inc. to amend certain conditions of licence for MusiquePlus and MusiMax, to make their programming more attractive to their respective target audiences. It claimed that all of the requested flexibility is needed to tailor the programming to the viewing habits of the targeted television viewers and thus revamp the services. Groupe V stated that the common thread of these services would remain music, but that the addition of programming complementary to music, such as comedy, movies and entertainment, lifestyle and reality television, would cement viewers' loyalty and sense of belonging.
43. The Commission notes that many interveners from different areas of activity wholeheartedly supported the changes proposed by Groupe V. They argued that Groupe V could make MusiquePlus and MusiMax viable and more attractive, which would promote music in the Canadian French-language market. ADISQ also supported the proposed transaction, but only on the condition that the Commission approve the amendments to the conditions of licence that it proposed. Ms. Antoine, for her part, expressed concern that the conditions of licence proposed by Groupe V would simply distance the two services from their original mandate of broadcasting music content and promoting Canadian artists.
44. As part of this application, the Commission has addressed the following issues:
  - the nature of service;
  - conditions of licence relating to program categories;
  - Canadian content;
  - Canadian programming expenditures (CPE);
  - the applicability of the group-based approach;
  - independent producers;
  - annual contributions to the creation and production of Canadian music video clips; and
  - the standard limitation regarding program category 2(b) Long-form documentary.

## Natures of service

45. MusiquePlus is currently required to devote at least 90% of its programming to music-related programs, while MusiMax has no minimum requirement for music programming. Groupe V therefore proposed to reduce the minimum requirement for MusiquePlus and to introduce one for MusiMax so as to harmonize their minimum requirements for music programming at 75%. Groupe V proposed that the natures of service be modified to read as follows:

- MusiquePlus – The licensee shall provide a national, French-language specialty Category A service of which at least 75% of the programming consists of music-related programs.
- MusiMax – The licensee shall provide a national, French-language specialty Category A service targeting an adult audience, with at 75% of its programming devoted to music in all its forms, its works, its history and personalities.

46. ADISQ supported this proposal, but requested that the Commission ensure that the minimum 75% requirement be rigorously respected. According to ADISQ's analysis and categorization, the music content in the programming schedules provided by Groupe V amounts to less than 75%. In this regard, Groupe V replied that the schedules were provided for information purposes only. Groupe V confirmed that the actual schedules of MusiquePlus and MusiMax would respect their natures of service and regulatory obligations.

47. In the Commission's view, the proposed minimum 75% requirement is inappropriate in view of the benefits provided by the services' Category A status, in particular, genre protection. Consequently, the Commission considers that it would be more appropriate to set the minimum requirement for music programming as defined in each nature of service at 80%. This level will help ensure the growth of the two services and the promotion of Canadian music artists. Amended **conditions of licence** are set out in the appendices to this decision.

## Conditions of licence relating to program categories

48. Groupe V proposed to amend certain conditions of licence<sup>2</sup> relating to program categories from which both services may draw their programming, so as to simplify their regulatory requirements and make it easier for them to manage their programming.

49. In the case of MusiquePlus, Groupe V proposed the following:

- to harmonize condition of licence 2(d), which requires that at least 30% of the broadcast month be devoted to programs from category 8(b) Music video clips, by adding program category 8(c) Music video programs so that the

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<sup>2</sup> The current conditions of licence for MusiMax and MusiquePlus are included in Appendices 5 and 6, respectively, of Broadcasting Decision 2012-241.

requirement be the same as that set out in condition of licence 2(e) for MusiMax. Program categories 8(b) and 8(c) would therefore be combined for the purposes of calculating the 30%.

- to amend condition of licence 2(h), which imposes a 15% limit over the broadcast month for some music-related program categories, by deleting the expression “music-related,” in view of the specificity of the nature of service in this regard.

50. In addition, Groupe V proposed to harmonize condition of licence 2(c) for MusiMax, which imposes a 10% limit over the broadcast month for some program categories, so that it be the same as condition of licence 2(c) for MusiquePlus. To achieve this, it proposed to remove program category 7(a) Ongoing dramatic series from condition of licence 2(d) for MusiMax and to add it to the service’s condition of licence 2(c).

51. The Commission considers that the proposed amendments would make it easier for each service to manage its programming without substantially altering the content broadcast. As a result, the Commission is of the view that Groupe V’s application to amend certain conditions of licence relating to the program categories for both services is appropriate. Amended **conditions of licence** are set out in the appendices to this decision.

### **Canadian content**

52. Currently, during each broadcast year, both MusiquePlus and MusiMax must devote at least 55% of the broadcast day and evening broadcast period to the broadcast of Canadian programming. Groupe V proposed to reduce this threshold to 45% for these two broadcast periods. In support of its application, Groupe V stated it wanted to focus its efforts on the quality instead of the quantity of Canadian programming broadcast. It also emphasized the precarious nature of the services’ financial viability.

53. Although ADISQ recognized the importance of producing quality content to attract a wider audience, it submitted that the requested reduction was too great and proposed instead a minimum level of 50%.

54. The Commission considers that reducing the broadcast of Canadian content to 45% for each broadcast period would represent too great a decrease given the benefits granted to the licensees of Category A services and the important role played by MusiquePlus and MusiMax in promoting Canadian artists. Consequently, the Commission finds that it is appropriate to set the minimum level for Canadian content to be broadcast during the broadcast day and evening broadcast period at 50%. This minimum level will also give Groupe V the flexibility it needs to revamp its services. Amended **conditions of licence** are set out in the appendices to this decision.

## Canadian programming expenditures

55. Groupe V proposed to increase the CPE level for MusiquePlus and MusiMax from 30% to 31% of gross revenues from the previous broadcast year. Groupe V indicated that this was the same percentage that applied to each service prior to the renewal of their broadcasting licences in 2012.
56. For its part, ADISQ proposed CPE levels of 45% for MusiquePlus and 55% for MusiMax, based on the historical CPE levels of the two services.
57. Based on the Commission's practice for calculating the CPE level for television services, the CPE level for MusiquePlus and MusiMax would be slightly below 31%. Accordingly, the Commission considers that the 31% CPE level proposed by Groupe V for MusiquePlus and MusiMax is appropriate. Amended **conditions of licence** are set out in the appendices to this decision.

## Applicability of the group-based approach

58. Groupe V proposed the deletion of the conditions of licence for MusiquePlus and MusiMax relating to the group-based approach.<sup>3</sup> Prior to the BCE-Astral transaction, the services were part of the Astral designated group and were subject to the group-based approach. Groupe V explained that if the Commission approved the proposed ownership transaction, the services would not be operated by a designated group. In addition, it noted that the Commission recently approved changes to the effective control of Historia and Séries+<sup>4</sup> and did not impose PNI expenditure requirements on those services.
59. ADISQ did not oppose Groupe V's request to delete the requirements relating to the group-based approach provided that the Commission impose on MusiquePlus inc. an increase in CPE and an increase in the minimum number of hours of programs to be devoted to program category 8(a) programming.
60. In regard to ADISQ's proposal, the Commission notes that it has increased the minimum CPE level to 31%. However, the Commission considers that imposing an increase in the amount of programming to be drawn exclusively from program category 8(a) would constitute an added restriction that would not contribute significantly to achieving the objectives of the Act and would reduce the flexibility granted to achieve those objectives. The Commission considers that the conditions of licence relating to nature of service and the broadcast and creation of Canadian content are sufficient to ensure the promotion of Canadian artists.
61. The Commission finds it appropriate not to impose PNI expenditure requirements on Groupe V and to delete all conditions of licence relating to the group-based approach given that MusiquePlus and MusiMax will be operated by the Remstar Group (which is not a designated group) following the transaction.

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<sup>3</sup> See Broadcasting Regulatory Policy 2010-167.

<sup>4</sup> See Broadcasting Decision 2013-738.

## Independent producers

62. Given that MusiquePlus and MusiMax are currently part of a designated group, MusiquePlus inc. must devote at least 75% of its PNI expenditures to independent production companies and submit an annual report to this effect. Groupe V stated that it wanted to work with the independent production sector and dedicate its PNI expenditures paid as tangible benefits to this sector. Nevertheless, it explained that it was not prepared to make such commitments and therefore requested that the Commission delete the condition of licence and the expectation relating to independent producers.
63. In the past, Groupe V has relied on independent producers to create content for its French-language television service V. In addition, the Commission notes that it did not receive an intervention from the Association québécoise de la production médiatique and that the interventions it received from independent producers were favourable to Groupe V's application. The Commission therefore finds it appropriate to delete the condition of licence and the expectation relating to independent producers.

## Annual contributions to the creation and production of Canadian music video clips

64. Currently, MusiquePlus and MusiMax are required, by condition of licence, to pay 3.4% and 5% of their operating revenues, respectively, to MaxFACT<sup>5</sup> for the creation and production of Canadian music video clips. In its reply, Groupe V proposed that these amounts now be allocated to a new CIPF (the Remstar Fund), which it would administer independently.
65. In regard to the administration of the new CIPF, the Commission considers that it would not be appropriate to require ADISQ to be involved in the establishment of this new fund. However, the Commission notes that Groupe V did not provide sufficient information concerning the Remstar Fund to allow the Commission to examine how the fund would function. Moreover, Groupe V confirmed to the Commission that it intended to submit these details following the publication of the present decision.
66. Accordingly, the Commission **directs** MusiquePlus inc. to submit, no later than **90 days following the date of this decision**, a document setting out all the details concerning the creation of the Remstar Fund and the identity of its administrators. This information must comply with the CIPF eligibility criteria set out in the appendix to Broadcasting Regulatory Policy 2010-833.
67. In the event that the Remstar Fund is not created in time to receive the annual contributions of MusiquePlus inc., the licensee will be required to direct the contributions to MaxFACT.

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<sup>5</sup> MaxFACT is a fund whose mandate is to encourage growth in music by supporting the production of Quebec and Canadian French-language music video clips as well as music video clips by Quebec artists in languages other than French and English.

## **Standard limitations regarding program category 2(b) Long-form documentary**

68. Groupe V stated that it was willing to accept a 10% limit over the broadcast month for programming drawn from program category 2(b) provided that this limit is imposed only on non music-related programs. The Commission notes that this limit is in keeping with the standard limitation set out in Broadcasting Public Notice 2008-100. Amended **conditions of licence** are set out in the appendices to this decision.

## **Conclusion**

69. In the light of all of the above, the Commission **approves**, subject to the modifications and conditions set out in this decision, the application by Groupe V Média inc., on behalf of MusiquePlus inc., for authority to change the ownership and effective control of MusiquePlus inc. to Groupe V. The Commission considers that this transaction serves the public interest and will contribute to the achievement of the objectives of the Act as it will foster competition in the French-language market and ensure the continued availability of a major showcase for Canadian musical talent.

70. In addition, the Commission **approves**, subject to the modifications set out in this decision, the application by Groupe V Média inc., on behalf of MusiquePlus inc., to amend certain conditions of licence relating to the programming of MusiquePlus and MusiMax. The Commission considers that the flexibility granted to MusiquePlus inc. with respect to the conditions of licence for both services will enable Groupe V to effect a quicker and more sustainable turnaround as it relates to the financial situation of MusiquePlus inc. MusiquePlus and MusiMax are important promotional tools for Canadian music artists, and the Commission is of the view that the licence amendments as modified by the Commission will provide the flexibility needed to successfully address MusiquePlus inc.'s financial situation.

71. The **conditions of licence** specific to MusiquePlus and MusiMax are set out in Appendices 1 and 2, respectively. Both broadcasting licences will expire on 31 August 2017.

## **Employment equity**

72. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Employment and Social Development, its employment equity practices are not examined by the Commission.

Secretary General

## **Related documents**

- *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014

- *Historia and Séries+ – Acquisition of assets and change in effective control*, Broadcasting Decision CRTC 2013-738, 20 December 2013
- *Astral broadcasting undertakings – Change of effective control*, Broadcasting Decision CRTC 2013-310, 27 June 2013
- *Astral Media inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2012-241, 26 April 2012
- *Contributions to Canadian programming by broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2010-833, 9 November 2010
- *A group-based approach to the licensing of private television services*, Broadcasting Regulatory Policy CRTC 2010-167, 22 March 2010
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Applications processed pursuant to the streamlined procedure*, Broadcasting Public Notice CRTC 2007-99, 5 September 2007
- *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007
- *Building on success – A policy framework for Canadian television*, Public Notice CRTC 1999-97, 11 June 1999

*\*This decision and the appropriate appendix are to be appended to each licence.*

# Appendix 1 to Broadcasting Decision CRTC 2014-465

## Terms, conditions of licence and expectations for the national, French-language specialty Category A service MusiquePlus

### Terms

The licence will expire 31 August 2017.

### Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for specialty Category A services set out in *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011, as amended from time to time, with the exception of condition 4, which is replaced by the following:

The licensee shall close caption 100% of French- and English-language programs broadcast over the broadcast day, consistent with *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007, with the exception of music video clips in languages other than French.

2. In regard to the nature of service:
  - (a) The licensee shall provide a national, French-language specialty Category A service of which at least 80% of the programming consists of music-related programs.
  - (b) The licensee may draw programming from all program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
  - (c) The licensee shall devote not more than 10% of the broadcast month to programming drawn from each of program categories 2(b) Long-form documentary (non music-related programs), 6(a) Professional sports, 7(a) Ongoing dramatic series, 7(d) Theatrical feature films aired on TV and 7(e) Animated television programs and films.
  - (d) The licensee shall devote at least 30% of the broadcast month to programming drawn from program categories 8(b) Music video clips and 8(c) Music video programs combined.
  - (e) At least 50% of the total number of music video clips broadcast by the licensee during each broadcast month shall be in the French language.
  - (f) At least 30% of the total number of music video clips broadcast by the licensee during each broadcast month shall be Canadian music video clips.

(g) The licensee shall schedule the Canadian and French-language music video clips it broadcasts in a reasonable manner throughout each broadcast month.

(h) The licensee shall devote not more than 15% of the broadcast month to programming drawn from program categories 7(b) Ongoing comedy series (sitcoms) and 7(c) Specials, mini-series or made-for-TV feature films.

(i) The licensee shall devote not more than 5% of the broadcast month to programming drawn from program category 2(a) Analysis and interpretation.

3. In each broadcast year, the licensee shall devote at least 50% of both the broadcast day and the evening broadcast period to the broadcast of Canadian programs.
4. In each broadcast year, the licensee shall devote 31% of the previous broadcast year's gross revenues of the undertaking to the acquisition of or investment in Canadian programming.
5. (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming that is up to 5% less than the minimum required expenditure for that year calculated in accordance with condition of licence 4; in such case, the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.  
  
(b) In each broadcast year of the licence term where the licensee expends an amount for that year on Canadian programming that is greater than the minimum required expenditure as set out in condition of licence 4, excluding the final year, the licensee may deduct that amount as long as it does not exceed 5% of the minimum required expenditure in that year from the minimum required expenditure for the following year of the licence term.  
  
(c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming, at a minimum, the total of the minimum required expenditures calculated in accordance with condition of licence 4.
6. In each broadcast year of the licence term, of the Canadian programming made under condition of licence 4 above, the licensee shall contribute to the Remstar Fund for the creation and production of Canadian music video clips not less than 3.4% of the previous broadcast year's gross revenues derived from the operation of its service. In the event that the Remstar Fund is not approved by the Commission and put in place in time to receive the annual contributions, the licensee shall direct the contributions to MaxFACT.

For the purpose of these conditions of licence:

The term "broadcast day" refers to the 24-hour period beginning each day at 6 a.m. or any other period approved by the Commission.

The terms “broadcast month,” “broadcast year” and “evening broadcast period” shall have the same meanings as those set out in the *Television Broadcasting Regulations, 1987*.

## **Expectations**

The Commission expects:

- that any dispute regarding terms of trade agreements with independent producer organizations run its course and be handled in accordance with the terms of the agreements before the parties request the Commission’s assistance in resolving matters under its jurisdiction.
- the licensee to ensure that the programs broadcast by the service provide an appropriate reflection of all regions of Quebec, including regions outside Montréal, and all regions of Canada. The Commission further expects the licensee to provide producers located in these regions with the opportunity to produce programs for its service.
- that the commitments made towards the Association québécoise de l’industrie du disque, du spectacle et de la vidéo (ADISQ) in the letter of agreement dated 5 July 2012 relating to the level of music video clip content and programs that will be broadcast between 6 p.m. and midnight by MusiquePlus be respected until the expiry of the current licence for the service (31 August 2017). Further, the Commission encourages MusiquePlus inc. to implement the proposal made in reply by Groupe V Média inc. and to undertake discussions with ADISQ, should ADISQ wish to do so and at its convenience, regarding the possibility of amending this letter of agreement so that it applies to all of program category 8 programming.
- MusiquePlus inc. to begin close captioning music video clips in languages other than French to expand its inventory of closed captioned music video clips and thus comply with the Commission’s accessibility policy.

## Appendix 2 to Broadcasting Decision CRTC 2014-465

### Terms, conditions of licence and expectations for the national, French-language specialty Category A service MusiMax

#### Terms

The licence will expire 31 August 2017.

#### Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for specialty Category A services set out in *Standard conditions of licence, expectations and encouragements for specialty and pay television Category A services*, Broadcasting Regulatory Policy CRTC 2011-443, 27 July 2011, as amended from time to time, with the exception of condition 4, which is replaced by the following:

The licensee shall close caption 100% of French- and English-language programs broadcast over the broadcast day, consistent with *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007, with the exception of music video clips in languages other than French.

2. In regard to the nature of service:

(a) The licensee shall provide a national, French-language specialty Category A service targeting an adult audience, with at least 80% of its programming devoted to music in all its forms, its works, its history and personalities.

(b) The licensee may draw programming from all program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.

(c) The licensee shall devote not more than 10% of the broadcast month to programming drawn from each of program categories 2(b) Long-form documentary (non music-related programs), 6(a) Professional sports, 7(a) Ongoing dramatic series, 7(d) Theatrical feature films aired on TV and 7(e) Animated television programs and films.

(d) The licensee shall devote not more than 10% of the broadcast month to programming drawn from program categories 7(b) Ongoing comedy series (sitcoms), 7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy and 7(g) Other drama combined.

(e) The licensee shall devote at least 30% of the broadcast month to programming drawn from program categories 8(b) Music video clips and 8(c) Music video programs combined.

(f) At least 50% of the total number of music video clips broadcast by the licensee during each broadcast month shall be in the French language.

(g) At least 30% of the total number of music video clips broadcast by the licensee during each broadcast month shall be Canadian music video clips.

(h) The licensee shall schedule the Canadian and French-language music video clips it broadcasts in a reasonable manner throughout each broadcast month.

3. In each broadcast year, the licensee shall devote at least 50% of both the broadcast day and the evening broadcast period to the broadcast of Canadian programs.
4. In each broadcast year, the licensee shall devote 31% of the previous broadcast year's gross revenues of the undertaking to the acquisition of or investment in Canadian programming.
5. (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming that is up to 5% less than the minimum required expenditure for that year calculated in accordance with condition of licence 4; in such case, the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.  
  
(b) In each broadcast year of the licence term where the licensee expends an amount for that year on Canadian programming that is greater than the minimum required expenditure as set out in condition of licence 4, excluding the final year, the licensee may deduct that amount as long as it does not exceed 5% of the minimum required expenditure in that year from the minimum required expenditure for the following year of the licence term.  
  
(c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming, at a minimum, the total of the minimum required expenditures calculated in accordance with condition of licence 4.
6. In each broadcast year of the licence term, of the Canadian programming made under condition of licence 4 above, the licensee shall contribute to the Remstar Fund for the creation and production of Canadian music video clips not less than 5% of the previous broadcast year's gross revenues derived from the operation of its service. In the event that the Remstar Fund is not approved by the Commission and put in place in time to receive the annual contributions, the licensee shall direct the contributions to MaxFACT.

For the purpose of these conditions of licence:

The term "broadcast day" refers to the 24-hour period beginning each day at 6 a.m. or any other period approved by the Commission.

The terms “broadcast month,” “broadcast year” and “evening broadcast period” shall have the same meanings as those set out in the *Television Broadcasting Regulations, 1987*.

## **Expectations**

The Commission expects:

- that any dispute regarding terms of trade agreements with independent producer organizations run its course and be handled in accordance with the terms of the agreements before the parties request the Commission’s assistance in resolving matters under its jurisdiction.
- the licensee to ensure that the programs broadcast by the service provide an appropriate reflection of all regions of Quebec, including regions outside Montréal, and all regions of Canada. The Commission further expects the licensee to provide producers located in these regions with the opportunity to produce programs for its service.
- that the commitments made towards the Association québécoise de l’industrie du disque, du spectacle et de la vidéo (ADISQ) in the letter of agreement dated 5 July 2012 relating to the level of music video clip content and programs that will be broadcast between 6 p.m. and midnight by MusiMax be respected until the expiry of the current licence for the service (31 August 2017). Further, the Commission encourages MusiquePlus inc. to implement the proposal made in reply by Groupe V Média inc. and to undertake discussions with ADISQ, should ADISQ wish to do so and at its convenience, regarding the possibility of amending this letter of agreement so that it applies to all of program category 8 programming.
- MusiquePlus inc. to begin close captioning music video clips in languages other than French to expand its inventory of closed captioned music video clips and thus comply with the Commission’s accessibility policy.