



Broadcasting Decision CRTC 2019-430

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Reference: 2019-127

Ottawa, 19 December 2019

Stingray Group Inc.
Across Canada

Public record for this application: 2019-0077-0
Public hearing in the National Capital Region
11 July 2019

PalmarèsADISQ by Stingray – Licensing of a discretionary service

*The Commission **approves** the application by Stingray Group Inc. for a broadcasting licence to operate the currently exempt, national, French-language discretionary service PalmarèsADISQ by Stingray as a licensed discretionary service.*

Application

1. Stingray Group Inc. (Stingray) filed an application for a broadcasting licence to operate its currently exempt, national, French-language discretionary service known as PalmarèsADISQ by Stingray as a licensed discretionary service.
2. Stingray is a widely held Canadian public company effectively controlled by Mr. Eric Boyko, as per the Nominations Rights Agreement and the Voting Trust Agreement.
3. PalmarèsADISQ by Stingray currently operates as exempt service in accordance with the Exemption order respecting discretionary television programming undertakings serving fewer than 200,000 subscribers, set out in Broadcasting Order 2015-88. The applicant confirmed that, during three consecutive months, the service exceeded the subscriber threshold for the operation of an exempt service. In accordance with Broadcasting Order 2015-88, it filed the present application.
4. The applicant stated that it would adhere by the standard conditions of licence for discretionary services set out in Broadcasting Regulatory Policy 2016-436. It also proposed to adhere to a condition of licence requiring it to devote at least 10% of the previous year's gross revenues to the acquisition of and investment in Canadian programming.
5. This service is devoted to the broadcast of French-language music video clips and related programming from all genres and origins, including music-related programs.

Intervention

6. The Commission received an intervention in support of this application from the Alliance québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ). ADISQ noted that PalmarèsADISQ by Stingray aims to promote French-Canadian music video clips and that Stingray has committed to investing a portion of the profits generated by the service to the production of local music videos through established funds. ADISQ proposed that the applicant be authorized to contribute a portion of its Canadian programming expenditures (CPE) to a music video clip production fund. Stingray did not reply to the intervention.

Commission's analysis and decision

7. In Broadcasting Regulatory Policy 2015-86, the Commission determined that discretionary services with over 200,000 subscribers should be subject to a CPE requirement. It established 10% of gross annual revenues as the minimum level of CPE for those services and stated that CPE for licensed services would be established "in a case-by-case manner and based on historical levels."
8. Stingray proposed that its CPE requirement be set at 10% of the previous year's gross revenues. Given that the applicant does not have data for a long enough period (i.e., three years) to make an informed decision since the service only launched in June 2018, the Commission considers that the 10% threshold proposed by the applicant is appropriate. Accordingly, the Commission has imposed a CPE requirement of 10% of the previous year's gross revenues for PalmarèsADISQ by Stingray. A **condition of licence** to this effect is set out in the appendix to this decision.
9. In regard to ADISQ's suggestion that Stingray be authorized to contribute a portion of its CPE to a music video clip production fund, the Commission determined, following a reconsideration of licence renewal decisions for the television services of large English- and French-language private ownership groups,¹ that it would be appropriate to impose a condition of licence requiring each large group to allocate 0.17% of their services' previous year's gross revenues to MUSICACTION for French-speaking groups and to FACTOR for English-speaking groups. The Commission indicated that this was a temporary measure that would allow the music industry to adapt to the elimination of genres.
10. Moreover, since genre protection was eliminated in 2015, discretionary services can change the orientation of their programming at any time. This means that PalmarèsADISQ by Stingray could cease to offer music programming without prior Commission approval. As such, the Commission considers that it would not be appropriate to require the applicant to allocate a portion of its revenue to music video clip production.

¹ See Broadcasting Decisions 2018-334 and 2018-335

Conclusion

11. In light of the above, the Commission **approves** the application by Stingray Group Inc. for a broadcasting licence to operate the currently exempt, national, French-language discretionary service PalmarèsADISQ by Stingray as a licensed discretionary service. The terms and **conditions of licence** are set out in the appendix to this decision.
12. PalmarèsADISQ by Stingray will be subject to the *Discretionary Services Regulations*. In addition, the distribution of these services will be subject to the requirements set out in the *Broadcasting Distribution Regulations*.

Secretary General

Related documents

- *Reconsideration of licence renewal decisions for the television services of large English-language private ownership groups*, Broadcasting Decision CRTC 2018-335, 30 August 2018
- *Reconsideration of licence renewal decisions regarding the licence renewals for the television services of large French-language private ownership groups*, Broadcasting Decision CRTC 2018-334, 30 August 2018
- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016
- *Exemption order respecting discretionary television programming undertakings serving fewer than 200,000 subscribers*, Broadcasting Order CRTC 2015-88, 12 March 2015
- *Let's Talk TV – The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2019-430

Terms, conditions of licence, expectations and encouragement for the discretionary service PalmarèsADISQ by Stingray

Terms

The licence will take effect 19 December 2019 and will expire 31 August 2024.

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for discretionary services set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. The licensee shall, in each broadcast year, devote not less than 10% of the previous year's gross revenues of the undertaking to the acquisition of or investment in Canadian programming. For the first year of the licence term, the calculation of the 10% shall be based on the previous year's gross revenues of the previously exempt service.
3. Subject to condition of licence 4, the licensee may claim, in addition to its expenditures on Canadian programming:
 - a. a 50% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an Indigenous producer and claimed as Canadian programming expenditures during that broadcast year;
 - b. a 25% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an official language minority community producer and claimed as Canadian programming expenditures during that broadcast year. The licensee may claim the credit if:
 - i) the programming is produced in the province of Quebec and the original language of production is English; or
 - ii) the programming is produced outside the province of Quebec and the original language of production is French.
4. The licensee may claim the credits calculated in accordance with condition of licence 3 until the expenditures made on Canadian programming produced by Indigenous producers and by official language minority community producers, including credits, reach a combined maximum of 10% of the Canadian programming expenditure requirement for the undertaking.

5. In regard to Canadian programming expenditures:
 - 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 for that year calculated in accordance with condition of licence 2; in such case, the licensee shall ensure that the service expends 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 calculated, excluding the final year, the licensee may deduct that amount from the total minimum required expenditure in one or more of the remaining years of the licence term.
 - c) Notwithstanding articles 5a) and 5b) mentioned above, during the licence term, the licensee shall ensure that the service expends on Canadian programming, at a minimum, the total of the minimum required expenditures calculated in accordance with condition of licence 2.
6. In the two years following the end of the previous licence term, the licensee shall report and respond to any Commission enquiries relating to the expenditures on Canadian programming made by the licensee for that term.
7. The licensee shall be responsible for any failure to comply with the requirements relating to expenditures on Canadian programming that occurred during the previous licence term.

Definitions

For the purposes of these conditions:

“Indigenous producer” means an individual who self-identifies as Indigenous, which includes First Nations, Métis or Inuit, and is a Canadian citizen or resides in Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and are Canadian citizens or reside in Canada. For the purposes of the definition of “Independent production company”, “Canadians” include any individual who self-identifies as Indigenous and resides in Canada, whereas “Canadian company” includes a production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and reside in Canada.

“Official language minority community producer” means a company that meets the definition of “independent production company” and that:

- a. if operating in the province of Quebec, produces original English-language programming; or

- b. if operating outside of the province of Quebec, produces original French-language programming.

“Broadcast day,” as an exception to the definition set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, refers to the 24-hour period beginning each day at 6 a.m. Eastern time.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.

Encouragement

The standard encouragement applicable to this licensee is set out in Appendix 2 to *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.