



Broadcasting Decision CRTC 2010-753

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Route reference: 2010-295

Ottawa, 13 October 2010

TVA Group Inc.
Across Canada

Application 2010-0397-0, received 26 February 2010
Public Hearing in the National Capital Region
19 July 2010

STAR SYSTÈME – Category 2 specialty service

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

Introduction

1. TVA Group Inc. (TVA Group) filed an application for a broadcasting licence to operate STAR SYSTÈME, a national, French-language general-interest Category 2 specialty programming undertaking that would offer programming devoted to entertainment news, the entertainment industry and humour. The programming would gradually be offered in high definition format.
2. TVA Group is a corporation controlled by Quebecor Media Inc.
3. The applicant proposed to draw programming for the proposed 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, 14 and 15.
4. The applicant proposed to limit the broadcast of programming from each of program categories 2(b), 7(c), 7(d) and 7(e), as well as from program categories 8(b) and 8(c) combined, to 10% of the broadcast month.
5. The Commission received an intervention offering general comments from TELETOON Canada Inc. (TELETOON), licensee of the French-language Category A service, TÉLÉTOON. The intervention as well as the applicant's reply can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

6. After examining the application in light of applicable policies and regulations, and taking into account the intervention received and the applicant's reply, the Commission considers that the issues to be determined relate to the following:
 - whether STAR SYSTÈME would compete directly with TÉLÉTOON or with existing Category A services;¹ and
 - the broadcast of programming drawn from program category 15 (Filler programming).

Would STAR SYSTÈME be directly competitive with TÉLÉTOON or with existing Category A services?

7. In Public Notice 2000-6, the Commission implemented a competitive, open-entry approach to licensing Category 2 services. While the Commission does not consider the impact that a Category 2 service might have on an existing Category 2 service, it does seek to ensure that Category 2 services do not compete directly with any existing Category A service.
8. In Public Notices 2000-171 and 2000-171-1, the Commission adopted a case-by-case approach to determining whether a proposed Category 2 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. While it did not oppose the application, TELETOON expressed concern with the possible competitiveness of the proposed service with TÉLÉTOON. In this regard, TELETOON proposed that the applicant limit the broadcast of programs drawn from program category 7(e).
10. In its reply, TVA Group stated that it would accept the standard limit of 10% of the broadcast month for program category 7(e).
11. The Commission is of the view that the application complies with Broadcasting Public Notice 2008-100 and that the proposed nature of service is sufficiently specific to ensure that the service does not morph into a service that would be competitive with any existing Category A services. Consequently, the Commission is satisfied that STAR SYSTÈME would not be directly competitive with any existing Category A services. The Commission reminds the applicant that the programming broadcast by STAR SYSTÈME must be consistent with the nature of service set out by condition of licence in the appendix to this decision.

¹ As set out in Broadcasting Public Notice 2008-100, Canadian analog and Category 1 pay and specialty services – services with 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 or analog pay or specialty services until such time as they are renamed Category A services.

Broadcast of programming drawn from program category 15

12. In regard to the applicant's request to broadcast programming from program category 15, the Commission notes that, in Public Notice 2000-171, it removed that program category from almost all of the nature of service descriptions for Category 2 services. The Commission considered that all programming drawn from program category 15 can be categorized more particularly under other categories and should be logged as such.

Conclusion

13. 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 announced in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by TVA Group Inc. for a broadcasting licence to operate the national, French-language general-interest Category 2 specialty programming undertaking, STAR SYSTÈME. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminder

14. The Commission reminds the applicant that the distribution of this service is subject to the applicable distribution rules set out in Broadcasting Public Notice 2008-100.

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
- *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
- *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

* *This decision is to be appended to the licence.*

Appendix to Broadcasting Decision CRTC 2010-753

Terms and conditions of licence for the Category 2 specialty programming undertaking STAR SYSTÈME

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. The undertaking must be operational at the earliest possible date and in any event no later than 36 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 13 October 2013. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

The licence will expire 31 August 2017.

Conditions of licence

1. The licence will be subject to the conditions set out in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001.
2. The licence will be subject to the conditions set out in *Implementation of the Accessibility Policy with respect to Category 2 pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-355, 8 June 2010.
3. The licensee shall provide a national, French-language general-interest Category 2 specialty service that would offer programming devoted to entertainment news, the entertainment industry and humour.
4. 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 drama 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, improvisations, 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
5. The licensee shall devote not more than 10% of the programming broadcast over the broadcast month to programming drawn from each of the following program categories: 2(b), 7(c), 7(d) and 7(e).
 6. The licensee shall devote not more than 10% of the programming broadcast over the broadcast month to programming drawn from program categories 8(b) and 8(c) combined.
 7. In order to ensure that the licensee complies at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998, the licensee shall file, for the Commission's prior review, a copy of any programming supply agreement and/or licence trademark agreement it intends to enter into with a non-Canadian party.
 8. The licensee is authorized to make available for distribution a version of its service in high definition (HD) format, provided that not less than 95% of the video and audio components of the upgraded and standard definition versions of the service are the same, exclusive of commercial messages and of any part of the service carried on a subsidiary signal. Further, all of the programming making up the 5% allowance shall be provided in HD.

For the purposes of the conditions of this licence, including condition of licence 1, *broadcast day* refers to the 24-hour period beginning each day at 6:00 a.m., or any other period approved by the Commission.