



## Broadcasting Decision CRTC 2005-502

Ottawa, 19 October 2005

**Astral Broadcasting Group Inc.**  
Across Canada

*Application 2005-0420-1*  
*Public Hearing in the National Capital Region*  
*15 August 2005*

### **Télé-Rêve – Category 2 specialty service**

*In this decision, the Commission **approves** an application for a broadcasting licence to operate a new Category 2 specialty programming undertaking.*

### **The application**

1. The Commission received an application by Astral Broadcasting Group Inc. (Astral) for a broadcasting licence to operate a national, French-language Category 2<sup>1</sup> specialty programming undertaking to be known as Télé-Rêve.
2. The applicant proposed to offer a service that would be devoted to what many people fantasize about: the lives of the rich and famous, the fascinating sagas of famous families, fancy homes, items and clothes, extraordinary life stories and the secrets of the stars. Astral proposed to air dramas, news magazines, documentaries and reality television shows that focus on wealth, luxury and stardom. All of the programming would be drawn from the following categories, as set out in Schedule I to the *Specialty Services Regulations, 1990*: 2(a) Analysis and interpretation; 2(b) Long-form documentary; 3 Reporting and actualities; 7(a) Ongoing dramatic series; 7(b) Ongoing comedy series (sitcoms); 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV; 9 Variety; 11 General entertainment and human interest; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.

### **Interventions**

3. The Commission received interventions in opposition to this application from TVA Groupe Inc. (TVA), a corporation that controls 100% of the national, French-language Category 1 specialty service known as Argent, and from ARTV inc., licensee of the national, French-language specialty service known as ARTV.

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<sup>1</sup> Category 2 services are defined in *Introductory statement – Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000.

#### **TVA Group Inc.**

4. According to TVA, the proposed service would be in direct competition with Argent (formerly known as LCN Affaires). As set out in *LCN Affaires – a new specialty service*, Decision CRTC 2000-468, 14 December 2000 (Decision 2000-468), the programming of LCN Affaires has two primary components:
  - the first component, offered from Monday to Friday, consists of news and information about the stock market and analysis and reporting on finance and business; and
  - the second component, offered on the weekend, generally consists of more entertaining programming relating to money, including biographies, documentaries, mini-series and feature films.
5. Therefore, Télé-Rêve, whose programming would be devoted to what people fantasize about, would overlap directly with the second component of Argent's programming, given that Télé-Rêve would broadcast programming that was very similar. TVA noted that, as of the fall of 2005, such programs will account for more than 10% of Argent's programming schedule and will take up a significant portion of the weekend programming schedule.

#### **ARTV inc.**

6. In its intervention, ARTV inc. speculated about the types of programs that Télé-Rêve intends to devote to the theme of celebrity, given that it is a theme that can be interpreted quite broadly, failing clarification by the applicant. According to ARTV inc., if a significant proportion of Télé-Rêve's programming were devoted to artistic celebrities, this would put Télé-Rêve in direct competition with several elements of ARTV's programming. Accordingly, should the Commission approve this application, ARTV inc. suggested that conditions of licence be imposed that restrict the broadcast of programming from Category 2(b) Long-form documentary, Category 7(a) Ongoing dramatic series, Category 7(c) Specials, mini-series or made-for-TV feature films, Category 7(d) Theatrical feature films aired on TV, and Category 11 General entertainment and human interest.

#### **The applicant's reply to the intervention by TVA**

7. In reply to the TVA intervention, Astral noted that, in Decision 2000-468, the Commission indicated that the programming of LCN Affaires would be "of interest to a target audience consisting of business people and all other persons wishing to learn how to better manage their money."

8. Astral submitted that the mission, themes and target audience of its proposed service were unrelated to the mission of financial education that the Commission had entrusted to LCN Affaires. Astral stated that its proposal has more to do with dreams and illusions and that its service would be aimed at a broader audience, made up mainly of female viewers between 24 and 54 who wish to escape the daily grind and let themselves become fascinated with sagas of famous families, luxury items and the secrets of the stars.
9. Astral also noted that TVA's application for a broadcasting licence for a Category 2 digital service to be known as Star Système has certain similarities to this application and that, in its application, TVA argued that Star Système would not compete directly with any existing specialty service.

**The applicant's reply to the intervention by ARTV inc.**

10. Astral noted that ARTV inc. was granted a licence for ARTV, which would provide programming "[translation] devoted to arts [literature, theatre, dance, opera, arts, visual art, personal documentaries, music...] that reflects the uniqueness of Quebec culture and the needs and circumstances of French-language communities in other parts of Canada." Astral also indicated that, to carry out its mission, ARTV inc. had committed to be first and foremost a "first-run service," since 80% of its initial program schedule would be devoted to first-run programs and given that the Commission indicated that it expected the programming of a national service devoted to the arts would consist predominantly of the "broadcast of works, performances, events and cultural activities from all parts of Canada." The concept that Télé-Rêve is proposing is, by all accounts, far removed from the concept of a national service devoted to the arts.
11. Astral emphasized that it has no intention of getting into the type of movie programming broadcast on ARTV, which is selected to meet the needs of cinema fanatics and the most discriminating film enthusiasts.
12. Télé-Rêve has no intention of pursuing an intellectual approach, such as analyzing the mechanisms involved in the creative process and philosophical reflection on literature and art, as is often the case for programming aired on the French-German ARTE network, during the program *Théma*, or on various original ARTV programs, such as *Palettes* or *Artistes dans l'Âme*. Télé-Rêve intends to be an entertainment channel that is not devoted to arts, but rather to programming on wealth, luxury and stardom.

## Commission's analysis and determination

13. In *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000, the Commission implemented a competitive, open-entry approach to licensing Category 2 services. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an existing analog pay or specialty service or an existing Category 1 service, although not with an existing Category 2 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.
14. In this case, the Commission notes that the applicant specified that Télé-Rêve would focus on fantasy and illusion, as opposed to Argent, whose programming is devoted to the economy, the business world and personal finances, and ARTV, whose programming is devoted to the arts and reflects the unique character of Quebec culture and the needs and special nature of Canada's other French-speaking communities. The Commission also notes that, in this application, the applicant indicated that, even though some French-language specialty services include programs that are similar to those that would be aired by Télé-Rêve, such programs would account for less than 10% of Télé-Rêve's programming.
15. The Commission is therefore satisfied that the nature of service proposed for Télé-Rêve is sufficiently specific to ensure that it will not be directly competitive with any existing analog pay, specialty or Category 1 service, including Argent and ARTV.
16. The Commission is satisfied that the application is in conformity with all applicable terms and conditions announced in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001 (Public Notice 2000-171-1). Accordingly, the Commission **approves** the application by Astral Broadcasting Group Inc. for a broadcasting licence to operate a French-language Category 2 specialty programming undertaking to be known as Télé-Rêve.
17. The licence will expire 31 August 2012, and will be subject to the **conditions** set out in Public Notice 2000-171-1, as well as to the **conditions** set out in the appendix to this decision.

## Issuance of the licence

18. 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 19 October 2008. 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.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*

## Appendix to Broadcasting Decision CRTC 2005-502

### 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 licensee shall provide a national, French-language Category 2 specialty programming undertaking devoted to what many people fantasize about: the lives of the rich and famous, the fascinating sagas of famous families, fancy homes, items and clothes, extraordinary life stories and the secrets of the stars.
3. The programming shall be drawn exclusively from the following categories, as set out in 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
  - 7 (a) Ongoing dramatic series
  - (b) Ongoing comedy series (sitcoms)
  - (c) Specials, mini-series or made-for-TV feature films
  - (d) Theatrical feature films aired on TV
  - 9 Variety
  - 11 General entertainment and human interest
  - 12 Interstitials
  - 13 Public service announcements
  - 14 Infomercials, promotional and corporate videos
4. Feature films from Category 7(d) broadcast by the licensee must have been copyrighted for at least 7 years prior to the broadcast date.

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 4 a.m., or any other period approved by the Commission.