



Broadcasting Decision CRTC 2004-419

Ottawa, 21 September 2004

Seabridge Media Inc.
Across Canada

*Application 2003-0551-7
Public Hearing in the National Capital Region
7 June 2004*

KBS Canada TV – Category 2 specialty service

*In this decision, the Commission **approves** the operation of a new Category 2 specialty television service.*

The application

1. The Commission received an application by Seabridge Media Inc. (Seabridge) for a broadcasting licence to operate a national, ethnic Category 2¹ specialty television service to be known as KBS Canada TV.
2. The applicant proposed to offer an ethnic programming service of interest to Korean immigrants to assist them in adapting to life in Canada. The applicant indicated that the proposed service would have some programming in common with two other Category 2 services, SBS Canada TV and ISC Canada TV. The applications by Seabridge for broadcasting licences to operate those services are approved in *SBS Canada TV – Category 2 specialty service*, Broadcasting Decision CRTC 2004-417, and *ISC Canada TV – Category 2 specialty service*, Broadcasting Decision CRTC 2004-418, both published today.
3. The Commission received one intervention in opposition to this application.

The intervention

4. The opposing intervention was filed by Tosan Lee, on behalf of the ethnic Category 2 specialty service known as All TV. All TV submitted that, in Seabridge's application it was noted that KBS Canada TV would have program supply agreements with Korean-language program providers KBS1 and KBS2 for a duration of 10 years. However, the intervener further noted that Seabridge subsequently indicated that it no longer had those agreements.

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

5. All TV also requested that the Commission examine the nature of the relationship between Seabridge and iSkycom Canada Inc. (iSkycom). While the applicant had stated that iSkycom would be removed from the list of its shareholders, the intervener expressed concern with the extent of this structural change.

The applicant's reply

6. In its response to the intervention related to program supply agreements, Seabridge stated that, when its application was filed, the agreements were in effect, although they are no longer. Seabridge indicated that, if its application were to be approved, it was confident that it would be able to acquire the rights to a sufficient supply of Korean-language programming.
7. With respect to the removal of iSkycom from the licensee's ownership group, Seabridge stated that the change will benefit the company. The applicant indicated that the revised ownership structure would result in 100% Canadian ownership and control of the licensee, allowing it freedom to independently negotiate its programming supply agreements.

The Commission's analysis and determination

8. 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. The Commission determined that it would not assess or take into account the viability of Category 2 services, their business or marketing plans, or the rates to be charged. The Commission stated that this would ensure that highly experimental or innovative services would not be excluded due to lack of perceived viability.
9. 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 pay, specialty or Category 1 service, although the Commission does not consider the impact that a new Category 2 service might have on 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.
10. In the present case, the Commission notes the applicant's statement that Seabridge will not have a business relationship with a foreign satellite distribution undertaking such as iSkycom. The Commission is therefore satisfied that Seabridge is in compliance 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. However, should any type of business arrangements with a third party occur in the future, the applicant is expected to inform the Commission immediately.

11. Based on its examination of this application, the Commission is satisfied that it 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 Seabridge Media Inc. for a broadcasting licence to operate the national, Korean-language Category 2 specialty television service, KBS Canada TV.
12. The licence will expire 31 August 2011, and will be subject to the conditions set out in Public Notice 2000-171-1, as well as to the **conditions of licence** set out in the appendix to this decision.

Issuance of the licence

11. 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 21 September 2007. 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 at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2004-419

Conditions of licence

1. The licensee shall provide a national, ethnic Category 2 specialty television service devoted to programming of interest to the Korean community in Canada.
2. The programming must 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:
 - 1 News
 - 2 (a) Analysis and interpretation
(b) Long-form documentary
 - 3 Reporting and actualities
 - 4 Religion
 - 5 (a) Formal education and pre-school
(b) Informal education/Recreation and leisure
 - 6 (a) Professional sports
(b) Amateur sports
 - 7 (a) Ongoing dramatic series
(b) Ongoing comedy series (sitcoms)
(c) Specials, mini-series, made-for-TV feature films
(d) Theatrical feature films aired on television
(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
3. During each broadcast week, not less than 85% of the programming shall be in the Korean language and not more than 15% of the programming shall be in the English language.

For the purposes of the conditions of this licence, *broadcast day* refers to the 24-hour period beginning at 6:00 a.m. each day.