



Broadcasting Decision CRTC 2007-200

Ottawa, 21 June 2007

Bhupinder Bola, on behalf of a corporation to be incorporated
Across Canada

Application 2006-1563-5, received 30 November 2006
Public Hearing at Membertou, Nova Scotia
16 April 2007

The Recovery Channel (TRC) – Category 2 specialty service

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

Introduction

1. Bhupinder Bola, on behalf of a corporation to be incorporated, filed an application for a broadcasting licence to operate The Recovery Channel (TRC), a national English-language Category 2 specialty programming undertaking devoted to the subjects of recovery, health and health-related issues, including real-life stories, news and information on procedures and drugs, overcoming addiction, depression, exercising for health, lifestyle improvement and diet.
2. The Commission has 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 1 or analog pay or specialty television 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. Where appropriate, in setting conditions of licence, the Commission prevents or limits the broadcast of specific types of programming to ensure that the service is not nor will become directly competitive with any existing Category 1 or analog pay or specialty television service.
3. In the present case, the Commission received an intervention opposing the application from Alliance Atlantis Communications Inc. (Alliance Atlantis), as well as a comment from Astral Television Networks, a division of Astral Broadcasting Group Inc. (Astral). Astral owns and operates The Movie Network and MPix, two English-language analog pay television programming undertakings that provide general interest theatrical movie-based services in eastern Canada. Alliance Atlantis is the licensee of Discovery Health Channel (Discovery Health, formerly known as Health Network Canada), a national English-language Category 1 specialty television service devoted entirely to useful, practical, reliable and entertaining programming related to health, wellness and medicine.

4. After considering the positions of the applicant and the interveners, the Commission considers that the issue to be determined in its evaluation of this application is whether the proposed service would be directly competitive with the above-noted services from Alliance Atlantis and Astral or with other existing Category 1 or analog pay or specialty services.

Would The Recovery Channel (TRC) be directly competitive with existing Category 1 or analog pay or specialty services?

5. The Commission notes that though the applicant indicated in its reply to Astral's intervention that it would accept a condition of licence limiting the proposed service's programming from category 7(d) (Theatrical feature films aired on TV), the applicant proposed no safeguards, such as a condition of licence, to address Alliance Atlantis's concern that TRC's proposed nature of service and the absence of limitations on its programming categories would result in its competing directly with Discovery Health.
6. In its reply to Alliance Atlantis, the applicant argued that the proposed nature of service would "provide[] flexibility in selecting programming for the program grid" such that there would be less overlap between its service and Discovery Health. The applicant also argued that the programs on TRC would not be similar to the high quality programming featured on Discovery Health.
7. However, the Commission notes that the applicant's proposed nature of service definition is very similar to that of Discovery Health, as set out in Decision 2000-461. The Commission also notes that the nature of service definition proposed by the applicant is very broad. Given the programming flexibility that the proposed definition would allow, the Commission is of the view that the applicant has not established sufficient safeguards to ensure that the proposed service would not become directly competitive with the Category 1 specialty service Discovery Health.

Conclusion

8. Based on the foregoing, the Commission concludes that the proposed Category 2 service would compete directly with Alliance Atlantis's existing television service. Accordingly, the Commission **denies** the application by Bhupinder Bola, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a national English-language Category 2 specialty programming undertaking to be known as The Recovery Channel (TRC).

Secretary General

Related documents

- *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001
- *Health Network Canada - a new specialty channel*, Decision CRTC 2000-461, 14 December 2000
- *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

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