



Broadcasting Regulatory Policy CRTC 2010-800

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Ottawa, 28 October 2010

Addition of myZen.TV to the lists of eligible satellite services for distribution on a digital basis

*The Commission **approves** an application to add myZen.TV to the lists of eligible satellite services for distribution on a digital basis and amends the lists of eligible satellite services accordingly. The revised lists are available on the Commission's website at www.crtc.gc.ca under "Broadcasting Sector."*

Introduction

1. The Commission received a request from Videotron Ltd. (Videotron) dated 24 March 2010 to add myZen.TV, a non-Canadian satellite service originating in France, to the lists of eligible satellite services for distribution on a digital basis (the digital lists).
2. Videotron described myZen.TV as a relaxation and well-being service that offers various methods for relaxation by broadcasting images associated with four different audio tracks from which viewers may choose: coaching in French, coaching in English, music, and sounds of nature.
3. In Broadcasting Notice of Consultation 2010-337, the Commission called for comments on the proposed addition of myZen.TV to the digital lists.
4. The Commission received one comment opposing the application from ZoomerMedia Limited (ZoomerMedia), which operates the English-language Canadian specialty service ONE: The Body, Mind and Spirit Channel (ONE).
5. ONE is a national English-language Category 1 specialty television service providing programming that discusses, reveals and explores the interconnectedness between body, mind and spirit. The service presents new holistic approaches to wellness, but not traditional or Western medical theory or practices.

Commission's analysis and determinations

6. The Commission set out its general approach to the addition of non-Canadian French- or English-language services to the digital lists in Public Notice 2000-173. Under this approach, the Commission assesses such requests in the context of its general policy, which, among other things, precludes the addition of a non-Canadian satellite service that can be considered either totally or partially competitive with Canadian specialty or pay television services. The Commission relies primarily on the comments filed to

identify the Canadian pay and specialty services with which the non-Canadian service might be totally or partially competitive and which therefore should be included in the assessment of its competitiveness.

7. In its comment, ZoomerMedia submitted that a comparison of the target audiences, the type and nature of the programs, and the programming schedule revealed an overlap between ONE and myZen.TV. ZoomerMedia stressed that both services target the same audience and provide programs of a similar nature. It pointed out that the programming of both services seems to advocate meditation, breathing and low-impact physical activity, as well as helping viewers lead more healthy, satisfying and relaxed lives. Therefore, according to ZoomerMedia, myZen.TV would compete directly with its service.
8. With respect to the programming overlap, ZoomerMedia added that an examination of the two programming schedules revealed that nearly 50% of the programming broadcast by myZen.TV is similar to that of ONE. ZoomerMedia argued that adding myZen.TV to the digital lists could have a significant negative impact on ONE's profitability and its ability to comply with its obligations under the *Broadcasting Act*.
9. In its reply, Videotron rejected the assertion by ZoomerMedia that ONE and myZen.TV are totally or partially competitive. Videotron explained that myZen.TV is not actually a programming service, but rather streaming video accompanied by a selection of soundtracks. Videotron added that myZen.TV does not offer programming that is hosted by specialists or instructors leading exercise sessions.
10. Videotron acknowledged that a portion of the respective programming of myZen.TV and ONE may be comparable, but noted that the overlap would be less than six percent of their programming schedules.
11. The Commission has analyzed the evidence provided by myZen.TV and ZoomerMedia during this proceeding. The Commission notes that myZen.TV's programming consists solely of streaming video accompanied by the viewer's selection of one of the four audio tracks described above. ONE, on the other hand, provides lifestyle and entertainment programs devoted to well-being, personal growth and spiritual health. Most of its programs are hosted and cover a variety of subjects, such as health and well-being, yoga and physical exercise, travel and adventure, and lifestyle and current affairs.
12. The Commission acknowledges that there is a degree of overlap with respect to the programming offered by the two services. However, a detailed analysis of the programming schedules of myZen.TV and ONE shows that a maximum of 10% of their programming could be similar.
13. Based on the programming of each service, the Commission considers that myZen.TV targets a much more specific audience than ONE and fills a much more specialized niche. In the Commission's view, ONE's more general and varied programming is intended for a broader audience.

14. In light of the above, the Commission concludes that the overlap between myZen.TV and ONE is minimal and that the respective nature of the two services is sufficiently distinctive, particularly in terms of focus and programming. It therefore considers that myZen.TV will not be totally or partially competitive with ONE.

Conclusion

15. In light of the foregoing, the Commission **approves** the addition of myZen.TV to the digital lists and amends the lists accordingly. The lists of eligible satellite services are available on the Commission's website at www.crtc.gc.ca under "Broadcasting Sector."
16. The Commission notes that, if a non-Canadian service on the digital lists changes its format so as to become competitive with a Canadian service, the Commission can remove the service from the lists after conducting the appropriate public process. In addition, again after a suitable process, it is open to the Commission to find that a service has changed to such an extent that it is no longer the same service that was originally added to the lists. Such a finding would necessitate a reassessment as to the competitiveness of the service, and whether or not it should remain authorized for distribution in Canada.

Secretary General

Related documents

- *Call for comments on the proposed addition of myZen.TV to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Notice of Consultation CRTC 2010-337, 2 June 2010
- *Call for proposals to amend the lists of eligible satellite services through the inclusion of additional non-Canadian services eligible for distribution on a digital basis only*, Public Notice CRTC 2000-173, 14 December 2000