



Broadcasting Decision CRTC 2012-532

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Route reference: 2012-212

Ottawa, 2 October 2012

Rogers Broadcasting Limited Across Canada

Application 2012-0173-0, received 10 February 2012
Public hearing in the National Capital Region
7 June 2012

The Entertainment Desk – Specialty Category B service

*The Commission **denies** an application for a broadcasting licence to operate a specialty Category B service.*

The application

1. Rogers Broadcasting Limited (RBL) filed an application for a broadcasting licence to operate The Entertainment Desk, a national, English-language niche specialty Category B service that would be devoted to entertainment news and the entertainment industry. The Commission did not receive any interventions in connection with this application.
2. The applicant proposed to draw programming 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: 1, 2(a), 2(b), 3, 4, 5(a), 5(b), 6(a), 6(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 8(b), 8(c), 9, 10, 11(a), 11(b), 12, 13 and 14.
3. To ensure that the proposed service would not be directly competitive with existing Category A services, the applicant indicated that it would adhere to the following conditions of licence:
 - The licensee shall devote no more than 10% of all programming broadcast during the broadcast month to programming drawn from each of categories 2(b), 6(a), 7(d) and 7(e).
 - The licensee shall devote no more than 10% of all programming broadcast during the broadcast month to programming drawn from categories 8(b) and 8(c) combined.

Commission's analysis and decision

4. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issue it must address is whether The Entertainment Desk would be directly competitive with any existing Category A services, and in particular, E!.¹
5. In Public Notice 2000-6, the Commission implemented a competitive, open-entry approach to licensing Category 2 (Category B) services. While the Commission does not consider the impact that a Category B service might have on an existing Category B service, it does seek to ensure that Category B services do not compete directly with any Category A services.
6. In Public Notices 2000-171 and 2000-171-1, the Commission adopted a case-by-case approach to determining whether a proposed Category B 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.
7. The Commission considers that The Entertainment Desk's proposed nature of service is not sufficiently focused on a niche market and that it is not sufficiently distinct to differentiate it from the Category A service E!. The Commission notes that RBL did not propose alternative safeguards to ensure that the service not be directly competitive with E!. The Commission also notes that RBL requested authorization to broadcast from all categories without sufficient limitations to prevent the service from changing its programming emphasis in the future.
8. Based on its analysis of The Entertainment Desk's proposed nature of service and a comparison with the programming of E!, the Commission finds that the proposed service would be directly competitive with E!.
9. Moreover, the Commission is of the view that the conditions of licence proposed by RBL are not sufficient to ensure that the proposed service would not be directly competitive with existing Category A services.

Conclusion

10. In light of all of the above, the Commission finds that the proposed Category B service would compete directly with E!. Accordingly, the Commission **denies** the application by Rogers Broadcasting Limited for a broadcasting licence to operate the national, English-language niche specialty Category B service The Entertainment Desk.

¹ In accordance with Broadcasting Public Notice 2008-100, as of 31 August 2011, Canadian analog and Category 1 pay and specialty services – services with access rights – are known as Category A services. The term "Category A" is used in this decision to encompass Category 1 or analog pay or specialty services.

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
- *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