



Broadcasting Decision CRTC 2004-464

Ottawa, 21 October 2004

Hola! Canadian Hispanic TV Network Inc.
Across Canada

*Application 2003-1816-4
Public Hearing in the National Capital Region
9 August 2004*

Hola! Canadian Hispanic TV Network – Category 2 specialty service

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

The application

1. The Commission received an application by Hola! Canadian Hispanic TV Network Inc. (Hola! Network) for a broadcasting licence to operate a Spanish-language Category 2¹ specialty programming undertaking to be known as Hola! Canadian Hispanic TV Network (Hola!).
2. The applicant proposed to offer a service that would be devoted to Spanish-speaking communities in Canada, with not less than 90% of all programming in the Spanish language and 10% in the English or French language.

The interventions

3. The Commission received 70 interventions in support of this application. One intervention was submitted by Mr. Norman Klenman, raising general comments as to the need for further foreign-language services, and one intervention was submitted by Teletatino Network Inc. (TLN) in opposition to the proposed service.
4. TLN expressed the view that the applicant would compete directly with its specialty service Teletatino, which offers programming targeted to Italian- and Spanish-speaking audiences.
5. According to TLN, Spanish-language programming presently occupies 52.5% of Teletatino's schedule, representing at least 12 hours of its daily programming schedule. In TLN's view, the proposed service would compete with Teletatino for the same national and retail advertisers that are interested in reaching Hispanic Canadians.

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.

6. According to TLN, the size of the targeted television market is limited. TLN stated that:

... more than 50% of Spanish-speaking people are concentrated in the Toronto/Hamilton and Montreal areas which are already served by a number of print and broadcasting outlets devoted wholly or partially to Hispanic/Spanish audiences. TLN is heavily reliant on these two markets, and on the Toronto market in particular, from which TLN draws most of its viewing and advertising revenue for its Spanish programming.
7. TLN submitted that, since the publication of *Licence renewal for the specialty television service Telelatino*, Broadcasting Decision CRTC 2002-388, 28 November 2002, which renewed Telelatino's licence until 31 August 2009, it had introduced a broad variety of new programming directed to its Hispanic audience, as described in a report that TLN submitted to the Commission on 1 December 2003.
8. The intervener further indicated that Hola! would compete with Telelatino in terms of target audience, programming content, advertising revenues and distribution. In light of the uncertainties referred to above and the fiercely competitive environment for subscribers and advertising revenue, TLN requested that the Commission deny this application, expressing the view that it is vital that the Commission adhere strictly to its licensing policy for new Category 2 specialty programming undertakings.
9. The applicant did not reply to the interventions.

The Commission's analysis and determination

10. 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. While the Commission does not consider the impact that a new Category 2 service might have on an existing Category 2 service, it does seek to ensure that newly licensed Category 2 services do not compete directly with any existing pay or specialty television service, including any new Category 1 service.
11. 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. The Commission examines each application in detail, taking into consideration the proposed nature of service and the unique circumstances of the genre in question.
12. In *Revised procedures for processing applications for new digital Category 2 pay and specialty television services*, Broadcasting Public Notice CRTC 2004-24, 8 April 2004, the Commission indicated that it may deny Category 2 applications in the following circumstances:

- where there is a well-supported intervention demonstrating that a service would be directly competitive with an existing service, and where the applicant has not persuaded the Commission to the contrary;
 - where an applicant, even in the absence of such an intervention, has not satisfied the Commission that its proposed service would not be directly competitive with any existing service; or
 - where an applicant has not demonstrated that it meets the ownership requirements.
13. The Commission notes that the proposed service would target the same audience as that served by Telelatino and that the applicant's very broad and general nature of service would provide considerable programming flexibility. The Commission further notes that the applicant did not respond to TLN's opposing intervention, to the effect that the proposed service would compete with Telelatino in terms of target audience, programming content, advertising revenues and distribution.
14. Based on the foregoing, the Commission concludes that the proposed Category 2 service would compete directly with the existing analog specialty programming undertaking Telelatino. Accordingly, the Commission **denies** the application by Hola! Canadian Hispanic TV Network Inc. for a broadcasting licence to operate the Hola! programming service.

Secretary General

This decision is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>