



## Broadcasting Public Notice CRTC 2004-61

Ottawa, 10 August 2004

### Call for comments on a request by the CCTA for the addition of HD Net and Discovery HD Theater to the lists of satellite services eligible for distribution on a digital basis

#### The request

1. The Canadian Cable Television Association (CCTA), acting as the Canadian sponsor, has filed a request that the Commission add two non-Canadian satellite services to the lists of satellite services eligible for distribution on a digital basis (the digital lists)<sup>1</sup>. The CCTA described the non-Canadian services as follows:

#### HD Net:

A programming service offering high definition (HD) programming 24 hours per day, seven days per week, using 1080i format. HDNet currently offers several original series, including music and news programs. HDNet acquires programming from several sources, including Paramount, Warner and Sony. Live HDNet sports productions include NHL games, major league soccer games, horse racing, auto racing, boxing, football and basketball games.

#### Discovery HD Theater:

A 24-hour, seven-day-a-week, HD programming service in 1080i HD format. Discovery HD Theater's programming is in wide-screen (16:9 aspect ratio) HD format with high quality picture and CD quality sound. Programming is drawn from a substantial library of family-friendly HD programming and focuses on nature, wildlife, science and technology, and world culture.

2. The CCTA stated that the distribution of the above services would benefit the Canadian broadcasting system by: (i) responding to the content deficit that consumers owning HD sets now confront; (ii) acting as a catalyst for the Canadian broadcasting industry to make the transition to the HD format; and (iii) encouraging more consumers to invest in HD sets and set top boxes, thereby accelerating the market conditions required to support more Canadian HD programming.

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<sup>1</sup> The most recent lists are those set out in *Revised lists of eligible satellite services*, Broadcasting Public Notice CRTC 2004-52, 15 July 2004.

## Background

3. In *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 (Public Notice 2000-173), the Commission invited proposals to amend the lists of eligible satellite services through the inclusion of additional non-Canadian programming services that would be authorized for distribution on a digital basis only. The Commission also stated in Public Notice 2000-173 that any such request must include the following:
  - evidence that the non-Canadian service has agreed to be sponsored by the Canadian party filing the proposal;
  - a statement from the service provider that it has obtained all necessary rights for distribution of its programming in Canada;
  - a brief description of the service;
  - a copy of the current program schedule;
  - evidence of potential demand, as gathered through discussions with distributors; and,
  - an undertaking from the non-Canadian service provider that it does not hold, will not obtain, nor will it exercise, preferential or exclusive programming rights in relation to the distribution of programming in Canada.
4. The Commission is satisfied that the CCTA has provided the supporting information required by Public Notice 2000-173 and that it is now appropriate to call for comments on the request described above.
5. As stated in Public Notice 2000-173, the Commission assesses such requests against the background of its policy that precludes the addition to the lists of non-Canadian satellite services that can be considered either totally or partially competitive with Canadian specialty or pay television services. In applying this policy, the Commission takes into account the services of all specialty and pay television programming undertakings whose licence applications have, to date, been approved by the Commission, including all of the launched and unlaunched pay television and Category 1 and Category 2 specialty programming services.
6. The CCTA submitted that HD Net and Discovery HD Theater are neither totally nor partially competitive with licensed Canadian specialty or pay television services. It added that they would complement Canadian services rather than provide substitutes for them. According to the CCTA, the proposed services are distinctive, in that all of their programs are originally produced in an HD format, and are not merely upgraded versions of low definition programs. The CCTA argued that HD television offers subscribers a

totally unique viewing experience and is superior to the current analog NTSC<sup>2</sup> broadcast system or standard definition digital transmission. The CCTA added that there are only a limited number of households capable of receiving HD television.

7. In *Call for comments on a proposed framework for the licensing and distribution of high-definition pay and specialty services*, Broadcasting Public Notice CRTC 2004-58, 6 August 2004, the Commission requested the views of interested parties regarding a proposed regulatory framework that would govern the transition to HD of pay and specialty services, and on the policy that would govern, among other things, the addition of non-Canadian HD services to the digital lists. In particular, the Commission proposed to follow its current practices by addressing the competitive aspects of any non-Canadian HD service at the time it considered the request to add the service to the digital lists.
8. In Public Notice 2004-58, the Commission also requested comment on whether it should be permissible to link non-Canadian HD services only with Canadian HD services, or whether low definition services could also be included. Further, if the linkage of non-Canadian HD services was to be restricted, parties were asked to comment on how non-Canadian HD services should be defined or designated for the purposes of the distribution and linkage rules.
9. The Commission invites those parties who file comments concerning the CCTA's request for the addition of HD Net and Discovery HD Theatre to the digital lists to take into account the proposed licensing and distribution framework set out in Public Notice 2004-58. The Commission notes that its assessment of the CCTA's request may be made in light of any determinations in the proceeding initiated by Public Notice 2004-58.

### **Call for comments**

10. The Commission invites interested parties to file comments concerning the proposed addition of either of the sponsored non-Canadian satellite services to the digital lists. Parties that wish to comment should also submit a true copy of their comments to the Canadian sponsor at the following address:

CCTA  
1010-360 Albert Street  
Ottawa, Ontario  
K1R 7X7  
Fax (613) 232-2137

11. Proof that comments have been sent to the sponsor must accompany the original of the comments sent to the Commission.
12. Comments must be received by the CRTC and by the CCTA on or before **5 November 2004**.

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<sup>2</sup> National Television Standards Committee

13. Parties should clearly identify the service or services to which their comments apply. They should also indicate whether they support, oppose, or propose changes to the CCTA's request, and should include the facts and grounds therefor.
14. The CCTA may file a written reply to any comments received concerning its request. Such replies should be filed with the Commission, and a copy sent to the person who submitted the comments, by no later than **19 November 2004**.
15. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

### **Procedures for filing comments**

16. Interested parties can file their comments to the Secretary General of the Commission by using ONE of the following formats:
  - Intervention/Comments form  
available from the Commission's web site by indicating and selecting the public notice number under the *Decisions, Notices and Orders* section

OR

  - **by electronic mail to**  
[procedure@crtc.gc.ca](mailto:procedure@crtc.gc.ca)

OR

  - **by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

OR

  - **by fax at**  
(819) 994-0218
17. Submissions longer than five pages should include a summary.
18. Please number each paragraph of your submission. In addition, please enter the line \*\*\*End of document\*\*\* following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.
19. The Commission will make comments filed in electronic form available on its web site at [www.crtc.gc.ca](http://www.crtc.gc.ca) but only in the official language and format in which they are submitted. Such comments may be accessed in the *Public Proceedings* section of the CRTC web site. Copies of all comments, whether filed on paper or in electronic form, will also be placed on the public examination file.

20. The Commission encourages interested parties to monitor the public examination file and the Commission's web site for additional information that they may find useful when preparing their comments.

**Examination of public comments and related documents at the following Commission offices during normal business hours**

Central Building

Les Terrasses de la Chaudière  
1 Promenade du Portage, Room G-5  
Gatineau, Quebec K1A 0N2  
Tel: (819) 997-2429 - TDD: 994-0423  
Fax: (819) 994-0218

Metropolitan Place

99 Wyse Road  
Suite 1410  
Dartmouth, Nova Scotia B3A 4S5  
Tel: (902) 426-7997 - TDD: 426-6997  
Fax: (902) 426-2721

405 de Maisonneuve Blvd. East

2<sup>nd</sup> Floor, Suite B2300  
Montréal, Quebec H2L 4J5  
Tel: (514) 283-6607  
Fax: (514) 283-3689

55 St. Clair Avenue East

Suite 624  
Toronto, Ontario M4T 1M2  
Tel: (416) 952-9096  
Fax: (416) 954-6343

Kensington Building

275 Portage Avenue  
Suite 1810  
Winnipeg, Manitoba R3B 2B3  
Tel: (204) 983-6306 - TDD: 983-8274  
Fax: (204) 983-6317

Cornwall Professional Building  
2125 - 11<sup>th</sup> Avenue  
Room 103  
Regina, Saskatchewan S4P 3X3  
Tel: (306) 780-3422  
Fax: (306) 780-3319

10405 Jasper Avenue  
Suite 520  
Edmonton, Alberta T5J 3N4  
Tel: (780) 495-3224  
Fax: (780) 495-3214

530-580 Hornby Street  
Vancouver, British Columbia V6C 3B6  
Tel: (604) 666-2111 - TDD: 666-0778  
Fax: (604) 666-8322

Secretary General

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