



Broadcasting Decision CRTC 2004-512

Ottawa, 23 November 2004

MediaNet Canada Ltd.
Across Canada

*Application 2003-1809-9
Public Hearing in the National Capital Region
7 September 2004*

Echo TV – 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 MediaNet Canada Ltd. (MediaNet) for a broadcasting licence to operate a national ethnic Category 2¹ specialty programming undertaking to be known as Echo TV.
2. The applicant proposed to offer a service that would be devoted to building and enhancing a bridge between Canadians of ethnic communities and their Canadian-born children. The service would broadcast culturally-diverse programming in English and French, which would provide a link for first generation Canadians to their roots and cultural origins.

Interventions

3. The Commission received interventions by Global Television Network Inc. (Global) and by Asian Television Network International Limited (Asian Television) in opposition to this application. Global operates the national English-language specialty television service, Prime TV, as well as the national English-language Category 1 specialty television services, Mystery and Men TV. Asian Television owns South Asian Television Canada Limited, the licensee of the national ethnic specialty television service known as ATN, which serves the South Asian community in Canada.
4. Both interveners submitted that the applicant had failed to demonstrate that the proposed service would not be directly competitive with existing pay, specialty or Category 1 services. Each intervener expressed its particular concern that the proposed service would compete directly with their respective services.

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.

5. Global further contended that the definition of the nature of service proposed by the applicant contained very few restrictions on programming subcategories and was, therefore, too vague. Global argued that Echo TV could become a general interest service, or alternatively, a niche service and that, in either case, the proposed service could be directly competitive with existing pay, specialty or Category 1 services.

The applicant's reply

6. In response, the applicant stated that its research had revealed no existing service that provided a service similar to that proposed for Echo TV. The applicant further asserted that the particular programs to be offered by Echo TV would be very different from those provided by the interveners' services or by any other existing pay, specialty or Category 1 service. It added that Echo TV would target a different audience from those targeted by the interveners' services.
7. The applicant stated that it would restrict the programming offered by Echo TV in each broadcast week from category 7 (drama) to 15%, from categories 8b and 8c (music videos) to 25%, and from categories 6a and 6b (sports) to 15%. According to the applicant, this proposal demonstrates that it is attempting to ensure that its service would not become directly competitive with any existing pay, specialty or Category 1 service.

The Commission's analysis and determination

8. 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.
9. 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.
10. In the present case, the Commission considers that the applicant's proposed definition of Echo TV's nature of service is very broad and would allow the applicant considerable flexibility to adjust its programming. The Commission is not convinced that Echo TV would provide a narrowcast service broadcasting thematic programming in a well-defined genre that provides a link for first generation Canadians to their ethnic origins, as proposed by the applicant. The nature of service, as interpreted by the applicant, would allow the broadcast of programs that are available on existing services, such as Prime TV and others, as well as existing over-the-air ethnic television services. In the Commission's view, this fact would allow the proposed Echo TV service to become directly competitive with existing analog specialty and Category 1 services.

11. Accordingly, the Commission **denies** the application by MediaNet Canada Ltd. for a broadcasting licence to operate the national ethnic Category 2 specialty programming undertaking Echo TV.

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>