



Broadcasting Public Notice CRTC 2003-40

Ottawa, 25 July 2003

The Commission has received the following application:

DEADLINE FOR INTERVENTION

29 August 2003

**1. Across Canada
Application 2003-0381-8**

Application by 3850099 CANADA LTD. to amend the licence of the national Category 2 specialty programming undertaking known as MTV2.

Background

3850099 Canada Ltd. is the licensee of the national Category 2 specialty programming undertaking that operates under the brand name MTV2. It was approved in *Music 5*, Decision CRTC 2000-539, 24 November 2000 as a pop music video service*. In *Connect - a new specialty channel*, Decision CRTC 2000-462, also dated 24 November 2000, the Commission approved an application by an affiliated company, currently incorporated as 3844161 Canada Ltd., for a national Category 1 specialty television service dedicated to the concerns and aspirations of Canada's youth aged 12-24*. The Category 1 service now operates under the brand name MTV Canada.

In Change in the ownership structure of MTV Canada and MTV2, and the Commission's findings concerning complaints regarding the compliance of these services with their licensing decisions, Broadcasting Decision CRTC 2003-65, 21 February 2003 (Decision 2003-65), the Commission approved applications by Craig Broadcast Systems Inc. (Craig), on behalf of 3844161 Canada Ltd. and 3850099 Canada Ltd. that resulted in a transfer of control of those companies.

MTVN Networks (MTVN) is a non-Canadian corporation and a wholly-owned subsidiary of Viacom International Inc. The transfer of control approved in Decision 2003-65 entailed a change in ownership structure. The change in ownership structure resulted in MTVN obtaining rights under certain agreements signed with Craig that raised concerns about the potential for MTVN to exercise control over the licensees.

* The reasons for approval and conditions of licence pertaining to these and other new digital pay and specialty services were published by the Commission on 14 December 2000.

These concerns were examined by the Commission in its decision. In Decision 2003-65, the Commission also ruled on complaints filed by CHUM Television, a division of CHUM Limited, (CHUM) and MusiquePlus inc. (MusiquePlus) concerning the services' compliance with their licensing decisions.

With respect to the complaints, and in light of the new ownership structure and agreements with MTVN, the Commission determined that it would be appropriate to incorporate a specific definition of a "Pop Music Video" into the MTV2 nature of service condition of licence to be adhered to by the service. The intended purpose of the definition was also to ensure that the service continued to adhere to the principles of the Commission's licensing framework for digital specialty services and its policies regarding the licensing of services that are not directly competitive, as set out in *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000 and reiterated in *Call for Applications for Licences for new Digital Pay and Specialty Television Programming Undertakings*, Public Notice CRTC 2000-22, 4 February 2000.

In light of the above determination, the Commission further decided that the change in ownership for Craig would only be effective when Craig applied, within 30 days of the decision, for an amendment to the nature of service conditions of licence of MTV2 to add the following definition:

Not less than 95% of music video clips broadcast on the channel shall consist of Pop Music Videos.

A "Pop Music Video" is a music video clip of a performance of a musical selection that is listed or has been listed within the preceding 12 months on the following trade publication charts: Billboard's Top 40 Tracks and/or Canadian Music Network's CHR Top 50 Spins, and/or CHR Top 50 Audience, or other charts as may be approved by the Commission.

The application

On 24 March 2003, 3850099 Canada Ltd. filed the required application to amend the nature of service condition of licence for MTV2. The licensee argued, however, that the Commission's proposed definition would be too restrictive, and therefore proposed the following, alternative condition of licence:

Not less than 70% of music video clips broadcast on the service shall consist of music video clips of a performance of a musical selection that is listed or has been listed within the proceeding 36 months on the following trade publication charts: Billboard's Hot 100 and/or Canadian Music Network's CHR Top 50 Spins and/or CHR Top 50 Audience, or other charts as may be approved by the Commission.

Canadian music videos shall not be subject to the foregoing restrictions.

The applicant indicated that it would accept deletion of the second paragraph from its proposed condition of licence, thereby extending the proposed restriction to include Canadian music videos, provided that the Canadian Top 50 Artists chart published by Canadian Music Week were also included in the definition.

The Commission hereby invites interested parties to comment on the appropriateness of the proposed alternative condition of licence, and specifically, on the extent to which this proposed definition would ensure that the service continues to adhere to its licence as well as to the principles of the digital licensing framework and the Commission's one-per-genre policy.

Licensee's address:

535 – 7 Avenue South West
 Calgary, Alberta
 T2P 0Y4
 Fax: 403-508-5560
 E-Mail: jennifer.strain@craigmedia.ca

Examination of application:

At the licensee's address.

[Intervention Form]

PUBLIC PARTICIPATION

DEADLINE FOR INTERVENTION

29 August 2003

The intervention must be received by the CRTC and by the applicant ON OR BEFORE the above-mentioned date. The Commission cannot be held responsible for postal delays.

Your intervention will be considered by the Commission, and will form part of the public record of the proceeding without further notification to you, provided the procedure set out below has been followed. You will be contacted only if your submission raises procedural questions.

Submit your written intervention to the Secretary General of the Commission in ONLY ONE of the following formats:

by using the form
[intervention form]

OR

by electronic mail to
procedure@crtc.gc.ca

OR

by mail at
CRTC, Ottawa, Ontario, K1A 0N2

OR

by fax to the
Secretary General - (819) 994-0218

A true copy **MUST** be sent to the applicant and proof that this has been done must accompany the intervention sent to the Commission.

Where the intervention is filed by electronic means, the line *****End of document***** should be entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

Please note that only the documents (applications and interventions) electronically filed will be available on the Commission's web site. You will be able to access these documents by indicating the public notice or the notice of public hearing number.

Each paragraph of the document should be numbered.

Your intervention should clearly identify the application and indicate whether you support or oppose the application, or if you propose changes to it, include the facts and grounds for your proposal.

In the event that the application is brought to the oral phase of the hearing, and if you wish to appear, you must provide reasons why your written comments are not sufficient and why an appearance is necessary.

In exceptional circumstances, the Commission may allow an intervenor to present its intervention by teleconference. At the time of filing its intervention, the intervenor must clearly indicate why the Commission should grant such a request.

EXAMINATION OF DOCUMENTS DURING NORMAL OFFICE HOURS

Documents are available at the local address provided in this notice and at the Commission offices and documentation centres directly involved with these applications or, upon request, within 48 hours, at any other CRTC offices and documentation centres.

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room G-5
Hull, Quebec K1A 0N2
Tel: (819) 997-2429 – TDD: 994-0423
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Tel: (902) 426-7997 – TDD: 426-6997
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FAX: (204) 983-6317

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2125 – 11th Avenue, Room 103
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This document is available in alternative format upon request and may also be examined at the following Internet site: <http://www.crtc.gc.ca>

Secretary General