



Broadcasting Regulatory Policy CRTC 2009-202

Route reference:

Broadcasting Public Notice 2008-104

Ottawa, 20 April 2009

Addition of Fox Business Network to the lists of eligible satellite services for distribution on a digital basis

*The Commission **approves** a request to add Fox Business Network to the lists of eligible satellite services for distribution on a digital basis and amends the lists of eligible satellite services accordingly. The revised lists are available on the Commission's website at www.crtc.gc.ca under "Broadcasting Sector".*

Introduction

1. The Commission received a request dated 5 September 2008 from Rogers Cable Communications Inc. (Rogers) for the addition of Fox Business Network (FBN), a non-Canadian, English-language satellite service originating in the United States, to the lists of eligible satellite services for distribution on a digital basis (the digital lists).
2. Rogers described the service as a recently launched 24-hour high definition cable and satellite business news network that seeks to expand the audience for business news by appealing to viewers beyond Wall Street.
3. In Broadcasting Public Notice 2008-104, the Commission called for comments on the proposed addition of FBN to the digital lists. The Commission noted that its approach to the addition of English- and French-language non-Canadian services, set out in Public Notice 2000-173, generally precludes the addition of new non-Canadian satellite services if the Commission determines them to be either totally or partially competitive with Canadian specialty or pay television services, including all specialty and pay television programming undertakings whose licence applications have been approved by the Commission.
4. The Commission stated that it would rely primarily on the comments filed to identify the Canadian pay and specialty services with which FBN might be totally or partially competitive and which, therefore, should be included in the assessment of the competitiveness of the service. The Commission asked that parties wishing to argue that FBN would be competitive should name the specific Canadian pay or specialty service or services with which they considered the service would compete and provide details to support their views, such as comparisons as to nature and genre of service, programming schedule, programming sources and supply, and target audience.

Comments received

5. The Commission received one comment from CTVglobemedia Inc. (CTVgm) opposing the addition of FBN to the digital lists.
6. CTVgm is the owner of CTV Television Inc., licensee of Business News Network (BNN), a national English-language analog specialty service devoted to business news and information programming. CTVgm argued that FBN would be directly competitive with BNN.
7. CTVgm submitted that FBN's programming is competitive in nature to BNN's programming in that they are both global financial and business news services. CTVgm also argued that there is significant programming overlap between FBN and BNN, since FBN provides live breaking news, coverage of pre- and post-market news, discussion, analysis, and ongoing market updates, all of which can be found on BNN in programs such as The Street, Market Morning, Market Call and Trading Day.
8. CTVgm contended that financial and business news related to the economy is not limited to one geographic area and that its business news service would naturally cover the economy as it relates to the United States and major markets around the world.
9. CTVgm stated that FBN would directly compete with BNN for its audience and that, in the current economy of declining advertising revenues and growing competition from unregulated sources offering business and financial news, the business news category does not have the capacity to permit open competition among Canadian and foreign services.

Reply from the sponsor

10. In reply, Rogers argued that, while both BNN and FBN provide business and financial news, the focus, perspective and programming content of each service are distinctly different: FBN offers a unique and alternative perspective on American and world events while BNN's primary focus is on issues concerning Canadians.
11. Rogers argued that BNN and FBN each have their own distinctive roster of on-air hosts, anchors, reporters, guests, analysts, experts, panelists and contributors, who provide comprehensive commentary and analysis and offer insights unique to their perspective and expertise. Rogers added that there is no programming overlap, no duplicative programming and no program supply agreement between the two programming services.
12. Rogers stated that BNN has firmly established itself as a success, with more than 5 million subscribers. Therefore, the addition of FBN, which would be available only as a discretionary service on digital, would not threaten the viability of BNN. Further, Rogers considered that FBN and BNN would be complementary rather than competitive, since the addition of FBN would raise the level of interest in business news coverage, thereby increasing the audience for all business programming.

13. Finally, Rogers noted that, in Broadcasting Public Notice 2008-100, the Commission concluded that Canadian mainstream national news services would no longer continue to benefit from genre exclusivity. Rogers submitted that FBN should be assessed as a news and information programming service, since it shares the key characteristics of such services, including live breaking stories, live financial news updates, analysis of events in real-time, live interviews with business and financial newsmakers, viewer call-in/e-mail programs and on-air personalities and anchors opining and editorializing on business news. Rogers added that the addition of Bloomberg Television¹, a non-Canadian financial news service, in 2004, constitutes evidence that the Commission has already recognized that non-Canadian news and information satellite services are not competitive with licensed Canadian entities that operate with similar formats.

Commission's analysis and determinations

14. In Broadcasting Public Notice 2008-100, the Commission stated that it would be predisposed to authorize non-Canadian news services for distribution in Canada. However, the Commission specified that it is the mainstream national news service genre that was to be opened for competition. In the case of FBN, the service is not a mainstream news service but rather a financial and business news service. Accordingly, the Commission considers it appropriate to follow the approach set out in Public Notice 2000-173, and retained in Broadcasting Public Notice 2008-100, in order to assess Rogers' request. The Commission must therefore determine whether FBN would be competitive with a Canadian pay or specialty service before adding the service to the digital lists.
15. The Commission notes that FBN has a similar programming schedule to that of BNN. For example, both include coverage of pre- and post-market news, discussion, analysis and ongoing market updates. However, the Commission also considers that the two services differ with respect to focus, perspective and programming content, in that FBN concerns itself primarily with American and world events while BNN offers a Canadian perspective and coverage of Canadian financial and business events.
16. In addition, the Commission notes that there is no duplicative programming and no program supply agreement between FBN and BNN.
17. In light of the above, the Commission considers that FBN would not be competitive with BNN or with other Canadian pay and specialty services. Therefore, the Commission **approves** the addition of Fox Business Network to the digital lists and amends the lists of eligible satellite services accordingly. The lists of eligible satellite services are available on the Commission's website at www.crtc.gc.ca under "Broadcasting Sector" and may be obtained in hard copy on request.

¹ Broadcasting Public Notice 2004-71

Secretary General

Related documents

- *Call for comments on the proposed addition of Fox Business Network to the lists of eligible satellite services for distribution on a digital basis* – Notice of consultation, Broadcasting Public Notice CRTC 2008-104, 5 November 2008.
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory Policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Revised lists of eligible satellite services*, Broadcasting Public Notice CRTC 2004-71, 16 September 2004
- *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

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