



Broadcasting Decision CRTC 2006-516

Ottawa, 14 September 2006

Black Walk Corporation
Across Canada

Application 2005-0959-9
Public Hearing in the National Capital Region
1 May 2006

Trash TV – Category 2 specialty service

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

The application

1. The Commission received an application by Black Walk Corporation for a broadcasting licence to operate a national, English-language Category 2¹ specialty programming undertaking to be known as Trash TV.
2. The applicant proposed to offer a service that would consist of programs related to youth culture as it pertains to action sports, heavy metal/live music and lifestyle programming. The proposed service would focus on youth culture and entertainment targeted to males between the ages of 12 and 27 years whose interests include action sports, live music/concerts, tattooing/piercing and Japanese animation.
3. All of the programming would be drawn from the following categories set out in Schedule 1 to the *Specialty Services Regulations, 1990*: 2(b) Long-form documentary; 3 Reporting and actualities; 5(a) Formal education and pre-school; 5(b) Informal education/Recreation and leisure; 6(a) Professional sports; 6(b) Amateur sports; 7(a) Ongoing drama series; 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV; 7(e) Animated television programs and films; 7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy; 8(b) Music video clips; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.

Interventions

4. The Commission received numerous interventions in support of this application and interventions in opposition by CHUM Limited (CHUM) and Captioning Consumers of Canada (CCC).

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. CHUM owns Razer (originally known as Connect and subsequently as MTV Canada²), an English-language Category 1 service that provides programming targeted to an audience of those aged between 12 and 24 years. CHUM noted that 80% of the proposed service's target audience would duplicate Razer's target audience and that the programming categories from which the proposed service would draw its programming are identical to those of Razer. Accordingly, CHUM submitted that the proposed service would be directly competitive with Razer.
6. CCC contended that the applicant had not proposed an adequate level of closed captioning. In CCC's view, all the programming offered by the proposed service should be captioned, either by adding captioning to its programming, or by acquiring captioned programming. CCC also expressed concern about the quality of captioning.

Applicant's reply

7. In response to CHUM, the applicant argued that the "uniqueness" of the programming offered by Razer has not been clearly defined due to the wide scope of topics covered on Razer. The applicant stated that Trash TV would focus solely on national action sports events, live hard rock and live heavy metal concerts and "alternative" adult lifestyle programming and maintained that the proposed service would therefore not be directly competitive with Razer.
8. The applicant did not respond to CCC.

Commission's analysis and determinations

9. In *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000 (Public Notice 2000-6), the Commission implemented a competitive, open-entry approach to licensing Category 2 services. While the Commission does not consider the impact that a Category 2 service might have on an existing Category 2 service, it does seek to ensure that Category 2 services do not compete directly with any existing pay or specialty television service, including any Category 1 service.

² In *Connect – a new specialty channel*, Decision CRTC 2000-462, 24 November 2000, with reasons that followed on 14 December 2000, the Commission approved an application by Craig Broadcast Systems Inc. (Craig Broadcast), on behalf of a company to be incorporated for a new Category 1 specialty service to be known as "Connect." Craig Broadcast rebranded Connect as "MTV Canada." In *Transfer of effective control of Craig Media Inc. to CHUM Limited; and Acquisition of assets – reorganization of Toronto One*, Broadcasting Decision CRTC 2004-502, 19 November 2004, the Commission approved the application by CHUM for authority to acquire effective control of Craig Media Inc., including MTV Canada. Under CHUM's ownership, MTV Canada was rebranded as "Razer."

10. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, and *Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001 (Public Notice 2000-171-1), the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an analog pay or specialty or existing 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.
11. In the present case, as noted in CHUM's intervention, 80% of the proposed service's target audience would duplicate Razer's target audience and the programming categories from which the proposed service would draw its programming are identical to Razer's authorized program categories. Further, the Commission considers that the nature of service definition proposed by the applicant would allow it considerable flexibility in the type of programming that could be broadcast by the proposed service. In the Commission's view, the nature of service definition does not clearly specify how the proposed programming would be complementary to that offered by Razer, which serves an audience of those aged between 12 and 24 years. In addition, the applicant did not provide safeguards, such as limits on specific types or amounts of programming, to ensure that the programming provided by the proposed service would not be directly competitive with the programming currently offered by the existing Category 1 service, Razer. Accordingly, the Commission finds that the application is not consistent with guidelines for Category 2 services set out in Public Notice 2000-6.
12. In light of all of the above, the Commission **denies** the application by Black Walk Corporation for a broadcasting licence to operate the national, English-language Category 2 specialty programming undertaking, Trash TV.
13. The Commission acknowledges the concerns raised by CCC. As indicated in *Review of certain aspects of the regulatory framework for over-the-air television*, Broadcasting Notice of Public Hearing CRTC 2006-5, 12 June 2006, the Commission is currently reviewing its approach to closed captioning with a view to improving the quantity and quality of captioning in the Canadian broadcasting system.

Secretary General

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