



Broadcasting Decision CRTC 2007-374

Ottawa, 15 October 2007

**Gordon Culley, on behalf of a corporation to be incorporated
Across Canada**

*Application 2007-0221-8, received 12 February 2007
Public Hearing in the National Capital Region
27 August 2007*

F.I.T. TV – Category 2 specialty service

*The Commission **denies** an application for a broadcasting licence to operate a new
Category 2 specialty programming undertaking.*

Introduction

1. Gordon Culley, on behalf of a corporation to be incorporated, filed an application for a broadcasting licence to operate F.I.T. TV, a national, English-language Category 2 specialty service that would offer a variety of programming of varying fitness levels and programs on nutrition and healthy lifestyle.
2. The Commission has 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 Category 1 or analog pay or specialty television 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.
3. The Commission received four interventions in connection with this application, including one offering general comments, submitted by Astral Broadcasting Group Inc. (Astral), and three in opposition, submitted by ONE: The Body, Mind and Spirit Channel Inc. (ONE), Alliance Atlantis Communications Inc. (Alliance Atlantis), and CanWest MediaWorks Inc. (CanWest).
4. ONE is the licensee of a national, English-language Category 1 specialty television service providing programming that discusses, reveals and explores the interconnectedness between body, mind and spirit. The programming offered includes holistic approaches to wellness, but not traditional, Western, medical stories or practices. ONE is licensed to offer programming in eight of the same categories proposed for use by F.I.T. TV, namely 2(b), 5(b), 7(c), 7(d), 10, 12, 13, and 14, an overlap of 61%. ONE also argued that the draft program schedule for F.I.T. TV provided by the applicant

includes 7 hours of Tai Chi, 10.5 hours of Yoga; 7 hours of Dance; and 24.5 hours of food, cooking or nutrition programming, for a total of 49 hours of programming each week. ONE argued that this total would represent 39% of the broadcast week that would compete directly with programming already offered by ONE. In conclusion, ONE noted that the proposed service, as described in the application, is substantially the same as that provided by ONE.

5. Alliance Atlantis stated that F.I.T.TV's proposed nutritional and healthy lifestyle shows would directly compete with programming offered on its service, Discovery Health. Alliance Atlantis noted that F.I.T. TV proposed to devote as much as 40% of the broadcast week to health programming and suggested that it would directly overlap with the 35% of Discovery Health's programming which features nutrition and healthy lifestyle programming. Alliance Atlantis stated that, if this application were approved, F.I.T. TV should be subject to conditions of licence that no more than 10% of all programming should be related to nutrition and healthy lifestyle programming, and that no more than 15% of all programming be drawn from category 7.
6. Alliance Atlantis and CanWest noted that the applicant requested authorization to broadcast local and/or regional advertising on its proposed national category 2 service. They further noted that the Commission's policy on advertising for category 2 services prohibits the broadcast of any paid advertising material other than national paid advertising. Alliance Atlantis and CanWest indicated that the Commission has on occasion granted exceptions to this policy, namely to ethnic services and regional news services. Alliance Atlantis and CanWest opposed the request to broadcast local and/or regional advertising, on the grounds that the proposed service is neither an ethnic nor a regional news service that would provide local or regional programming.
7. Astral proposed that F.I.T. TV be subject to a condition of licence limiting programs drawn from category 7(d) (Theatrical feature films aired on TV) to 15% of the broadcast week.
8. The applicant did not reply to the interventions.

Would F.I.T. TV be directly competitive with existing Category 1 or analog pay or specialty services?

9. The Commission notes that the applicant's proposed nature of service definition is very similar to that of ONE, as set out in Decision 2000-450 and to that of Discovery Health, as set out in Decision 2000-461. The Commission also notes that the nature of service definition proposed by the applicant is very broad. Given the programming flexibility that the proposed definition would allow, the Commission is of the view that the applicant has not established sufficient safeguards to ensure that the proposed service would not become directly competitive with the Category 1 specialty services ONE and Discovery Health.

Conclusion

10. Based on the foregoing, the Commission concludes that the proposed Category 2 service would compete directly with ONE's existing television service. Accordingly, the Commission **denies** the application by Gordon Culley, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a national, English-language Category 2 specialty programming undertaking to be known as F.I.T. TV.

Secretary General

Related documents

- *Wisdom: Canada's Body, Mind & Spirit Channel – a new specialty channel*, Decision CRTC 2000-450, 14 December 2000
- *Health Network Canada – a new specialty channel*, Decision CRTC 2000-461, 14 December 2000

This decision 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>