



Broadcasting Decision CRTC 2008-352

Ottawa, 12 December 2008

The Sports Network Inc.
Across Canada

Complaint regarding the launch of the digital channel TSN2

*In this decision, the Commission finds that The Sports Network Inc., in launching TSN2, is in compliance with its authority to offer multiple feeds and with the Commission's policy on time-shifting, notwithstanding the unexpected combination of the authorizations. The Commission therefore **dismisses** the complaints by the Canadian Broadcasting Corporation and Score Media Inc.*

Introduction

1. The Commission received complaints from the Canadian Broadcasting Corporation (CBC) and Score Media Inc. (SMI) relating to the launch of TSN2 by The Sports Network Inc. (TSN). Both the CBC and SMI contended that TSN does not have the regulatory authority to launch the new service.
2. TSN is a national, English-language specialty television service that offers programming dedicated to all aspects of sports. On 29 August 2008, TSN launched TSN2, a digital split-feed service of the main TSN service that is time-shifted by three hours. Up to 10% of TSN2's programming is distinct regional programming.
3. TSN submitted that it is in compliance with both Broadcasting Decision 2006-620, in which the Commission authorized TSN to provide multiple feeds of its programming services on a digital-only basis, and with the Commission's policy relating to time-shifted programming as set out in Broadcasting Decision 2002-351.

Commission's analysis and determinations

4. The Commission finds that the primary issue to be considered in the evaluation of the complaints is whether TSN has the authority to time-shift the programming it offers on its authorized split-feed service.
5. In Broadcasting Decision 2006-620, the Commission approved an application by TSN to amend its licence in order to permit the delivery of multiple feeds of its existing programming service to individual broadcasting distribution undertakings (BDUs) on a digital-only basis. Specifically, the Commission approved the following condition of licence:

The licensee may distribute separate regional programming in place of its national service to affiliated distribution undertakings provided that the hours devoted to such regional programming do not exceed 10% of the licensee's quarterly program schedule. The licensee may also distribute such multiple feeds of its service in a single region on a digital-only basis.

6. In that decision, the Commission also clarified the scope of TSN's authorization to provide split feeds, as follows:
 - TSN may distribute separate regional programming in place of its national service to affiliated BDUs;
 - Such programming may not exceed 10% of TSN's quarterly program schedule; and
 - The circumstances in which a split feed is employed will apply to national rights properties owned by TSN and, for greater clarity, will apply only to live, national events.
7. As the Commission stated in Broadcasting Decision 2002-351, it considers that time-shifting is useful to both the licensee and the viewer in that it allows programming to be distributed in a way that takes into account Canada's different regions and time zones. In the same decision, the Commission stated that it is not necessary for national specialty services to obtain prior authorization to time-shift the release of an identical program schedule to different parts of the country in order to take different time zones into account.
8. In Broadcasting Decision 2006-197, the Commission ruled on a previous complaint by the CBC concerning the simultaneous distribution of multiple feeds of TSN, and drew a distinction between "split-feed" signals and "time-shifted" signals. The Commission noted that:

Split-feed signals are multiple signals provided by a broadcaster that offer different programming, where authorized and to a degree specified by Commission authority. Time-shifted signals offer the same programming at different times in order to provide BDU subscribers with multiple opportunities to view the programming provided by a broadcaster.

9. In order to launch TSN2, TSN combined its authority to provide multiple feeds of its service with the Commission's policy on time-shifting. In Broadcasting Decision 2006-620, the Commission did not include any restrictions on time-shifting of the authorized split-feed service. Similarly, in its statement regarding time-shifting set out in Broadcasting Decision 2002-351, the Commission did not set any restrictions that would prohibit broadcasters from applying time-shifting in combination with any other authorization. Although it further specified that time-shifting be used for services where the programming schedule is identical, the Commission notes that TSN has the explicit authority to offer up to 10% of separate regional programming on secondary feeds.

Conclusion

10. In light of the above, the Commission finds that, in launching TSN2, The Sports Network Inc. has combined authorizations in an unexpected manner, but is nonetheless in compliance with both its condition of licence relating to multiple feeds and with the Commission's policy on time-shifting. Therefore, the Commission **dismisses** the complaints by the Canadian Broadcasting Corporation and Score Media Inc.

Secretary General

Related documents

- *Multiple feeds approved*, Broadcasting Decision CRTC 2006-620, 9 November 2006
- *Complaint by the Canadian Broadcasting Corporation concerning the simultaneous distribution of multiple feeds of The Sports Network*, Broadcasting Decision CRTC 2006-197, 23 May 2006
- *Proposal to broadcast separate local programming in Vancouver and Toronto*, Broadcasting Decision CRTC 2002-351, 6 November 2002

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>.