



Broadcasting Decision CRTC 2005-245

Ottawa, 15 June 2005

**Frank Rogers, on behalf of a corporation to be incorporated
Across Canada**

*Application 2004-1000-5
Public Hearing at Vancouver, British Columbia
28 February 2005*

Canadian Teen Television Network – Category 2 specialty service

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

The application

1. The Commission received an application by Frank Rogers, on behalf of a corporation to be incorporated (Frank Rogers, OBCI), for a broadcasting licence to operate a national English-language Category 2¹ specialty programming undertaking to be known as Canadian Teen Television Network. Mr. Frank Rogers will be the sole shareholder of the licensee corporation. The board of directors will be comprised of six members, one of whom is a non-Canadian.
2. The applicant proposed to offer a service that would be dedicated to teens and young adults and would include teen-produced films and programs.

Interventions

3. The Commission received an intervention in support of this application, an intervention by CHUM Limited (CHUM) in opposition to the application and a comment by The Family Channel Inc. (TFC).
4. CHUM opposed this application claiming that the applicant's proposed service would be directly competitive with various licensed specialty channels, including CHUM's Category 1 specialty service Connect, which was launched under the brand name MTV-Canada. In CHUM's view, this application does not meet the tests outlined by the Commission in *Revised procedures for processing applications for new digital Category 2 pay and specialty television services*, Broadcasting Public Notice CRTC 2004-24, 8 April 2004.

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. TFC is the licensee of the national English-language pay television undertaking known as Family. In its intervention commenting on this application and that of The Single Parent Channel, TFC noted that the Commission's approach to licensing new Category 2 pay and specialty services has been to establish restrictions to ensure that they will not be directly competitive with an existing pay, specialty or Category 1 service. It expressed concern that, while the Commission has imposed specific limitations with respect to the amount of programming that may be drawn from category 7 (Drama and comedy) on other Category 2 services, the applicant did not propose any restrictions limiting the amount of programming it could draw from this category. According to TFC, if the Commission approves this application, the new service should be subject to a condition of licence whereby no more than 15% of its programming could be drawn from category 7.

Applicant's response

6. In response to CHUM's intervention, the applicant submitted that its service would not be competitive with CHUM's Connect. The applicant indicated that its proposed service would interest a different audience than Connect's, given that some of the programming would be of interest to the parents of Canadian teens. The applicant also stated that, while Connect broadcasts a great deal of music programming, the proposed service would only devote 3% of its program schedule to categories 8(b) (Music video clips) and 8(c) (Music video programs).
7. In response to both CHUM's and TFC's interventions, the applicant stated that 32% of its programming would be local Canadian sportscasts and sports analysis programs involving teens and 15% would be Canadian teen school and local community plays, and school and community concerts. The applicant further stated that 12% of programming would be devoted to current news events, no more than 3% to categories 8(b) and 8(c). 23% of the schedule would be devoted to Canadian young people's productions, including no more than 12% American-produced programming, and no more than 15% would be devoted to films produced by, directed by and starring teens.
8. Finally, in response to TFC, the applicant also stated that it would accept a condition of licence limiting to 15% the amount of programming it may draw from category 7.

Commission's analysis and determination

9. In *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000, the Commission implemented a competitive, open-entry approach to licensing Category 2 services. 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.

10. With respect to the interventions by CHUM and TFC, the Commission considers that the conditions and limitations with respect to the amount of programming that the licensee may broadcast imposed by the **conditions of licence** set out in the appendix to this decision will ensure that the proposed service will not directly compete with any analog, Category 1, pay or specialty service.
11. The Commission also recognizes that the proposed service is for teens and would include teen-produced films and programs. Consequently, the Commission imposes, as a **condition of licence**, that the service be predominantly oriented to teens and young adults, specifically the 13 to 21 age group, with some programs and movies that will appeal to the 21 to 25 age group.
12. In light of the above, the Commission is satisfied that the application is in conformity with all applicable terms and conditions announced in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Frank Rogers, on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national English-language Category 2 specialty programming undertaking, Canadian Teen Television Network.
13. The Commission notes that the applicant indicated that it does not intend to enter into any type of business agreements, including programming supply agreements, shareholders agreements or licence trademark agreements, with its non-Canadian director. However, if the applicant should contemplate entering into any such agreement with the non-Canadian director in the future, the Commission expects the applicant to submit the proposed agreement to the Commission for prior review in order to ensure that the proposed licensee complies at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998.
14. The licence will expire 31 August 2011, and will be subject to the conditions set out in Public Notice 2000-171-1, as well as to the **conditions of licence** set out in the appendix to this decision.

Issuance of the licence

15. A licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:
 - an eligible Canadian corporation has been incorporated in accordance with the application in all material respects;
 - the applicant has entered into a distribution agreement with at least one licensed distributor; and

- the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 36 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 15 June 2008. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Secretary General

This decision is to be appended to the licence. It 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>

Appendix to Broadcasting Decision CRTC 2005-245

Conditions of licence

1. The licence will be subject to the conditions set out in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001, as well as to the following conditions of licence.
2. The licensee shall provide a national English-language Category 2 specialty programming undertaking service dedicated to teens and young adults, specifically the 13 to 21 age group, with some programs and movies that will appeal to the 21 to 25 age group. The service will include teen-produced films and programs.
3. The programming must be drawn exclusively from the following categories, as set out in Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
 - 1 News
 - 2 (a) Analysis and interpretation
(b) Long-form documentary
 - 3 Reporting and actualities
 - 4 Religion
 - 5 (a) Formal education and pre-school
(b) Informal education/Recreation and leisure
 - 6 (b) Amateur sports
 - 7 Drama and comedy
 - 8 (a) Music and dance other than music video programs or clips
(b) Music video clips
(c) Music video programs
 - 9 Variety
 - 10 Game shows
 - 11 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
4. The licensee shall devote no more than 15% of all programming broadcast during the broadcast week to category 7.
5. The licensee shall devote no more than 3% of all programming broadcast during the broadcast week to categories 8(b) and 8(c).

6. The licensee shall devote no less than 32% of all programming broadcast during the broadcast week to local Canadian sportscasts and sports analysis programs involving teens.
7. The licensee shall devote no less than 15% of all programming broadcast during the broadcast week to Canadian teen school and local community plays, and school and community concerts.
8. The licensee shall devote no more than 12% of all programming broadcast during the broadcast week to current news events.
9. The licensee shall devote no more than 23% of all programming broadcast during the broadcast week to Canadian young people's productions, including up to 12% to American-produced programming.
10. The licensee shall devote no more than 15% of all programming broadcast during the broadcast week to films produced by, directed by and starring teens.

For the purposes of the conditions of this licence, including condition of licence no. 1, *broadcast day* shall have the same meaning as that set out in the *Television Broadcasting Regulations, 1987*.