



Broadcasting Decision CRTC 2006-250

Ottawa, 22 June 2006

Toronto Raptors Network Ltd.
Across Canada

*Application 2006-0011-5
Broadcasting Public Notice CRTC 2006-18
16 February 2006*

Raptors NBA TV – Licence amendment

*The Commission **approves in part** an application to amend the broadcasting licence for the national, Category 2 specialty programming undertaking known as Raptors NBA TV and its related high definition version known as Raptors NBA TV HD, in order to authorize the licensee to increase the maximum amount of live basketball games that it may broadcast annually, from 5% to 10%.*

The application

1. The Commission received an application by Toronto Raptors Network Ltd. to amend the broadcasting licence for the national, Category 2 specialty programming undertaking Raptors NBA TV in order to increase the maximum amount of live basketball games that the service may broadcast annually.
2. Raptors NBA TV's current nature of service condition of licence c) reads as follows:
 - c) The licensee may broadcast live basketball games representing up to a maximum of 5% of its program schedule.
3. The licensee proposed to amend condition of licence c) to read as follows:
 - c) The licensee may broadcast live basketball games representing up to a maximum of 15% of its program schedule.
4. The licensee requested that the proposed condition of licence apply to both the standard definition of its service known as Raptors NBA TV and the high definition (HD) version of its service known as Raptors NBA TV HD¹.

¹ In *Raptors TV – Licence amendment*, Broadcasting Decision CRTC 2005-486, 12 October 2005, the Commission authorized the licensee, by condition of licence, to make available for distribution, until three years from the date of that decision, a version of the service in high definition format.

Background

5. Raptors NBA TV (initially known as Raptors Basketball Channel and subsequently as Raptors TV) is authorized to provide a service that is devoted to the Toronto Raptors and NBA basketball. The Commission originally authorized the operation of the service in *Raptors Basketball Channel*, Decision CRTC 2000-627, 14 December 2000 (Decision 2000-627). As part of its nature of service conditions of licence, the licensee was prohibited from providing any live coverage of professional basketball games.
6. Subsequently, in *Amendment to the condition of licence pertaining to the nature of the service provided by the Raptors Basketball Channel*, Decision CRTC 2001-540, 31 August 2001 (Decision 2001-540), the Commission approved in part an application for an amendment to the nature of service conditions of licence. The licensee had requested that it be permitted to devote a maximum of 10% of the program schedule to the broadcast of live basketball games. As part of its determination on this application, the Commission stated that: "In the circumstances, the applicant has not demonstrated to the Commission's satisfaction that it should be permitted to provide a greater amount of live event coverage than other Category 2 sports specialty services." The Commission decided to grant partial approval of the licensee's request by authorizing it devote a maximum of 5% of the program schedule to the broadcast of live basketball games.

Licensee's rationale for the present application

7. In support of its present application, the licensee stated that, although live basketball games made up only 5% of Raptors NBA TV's broadcast schedule during the 2004 to 2005 NBA season, they represented 35% of its viewership during that period. It added that 30% of all the letters it receives from viewers are requests for more live basketball. At the same time, the licensee maintained that there is a "great deal of basketball inventory" that is not broadcast by any Canadian broadcaster due to lack of scheduling capacity. The licensee stated that, of the 1,280 NBA games available for broadcast by Canadian broadcasters in the 2005 to 2006 NBA season, only 480 games were licensed for broadcast, leaving 800 games available. In the licensee's view, allowing Raptors NBA TV to broadcast more live basketball games would enable it carry out its mandate more fully.
8. The licensee submitted that the three analog specialty sports services, The Sports Network (TSN), which is operated by The Sports Network Inc., SportsNet, which is operated by Rogers SportsNet Inc. (Rogers), and The Score, which is operated by The Score Television Network Ltd. (Score Network), are general interest services that broadcast a variety of programming from all sports and consequently have a limited number of hours available for basketball programming. By way of example, the licensee stated that, during the 2005 to 2006 NBA season, TSN broadcast fifteen Raptors games and three NBA games featuring U.S. teams while SportsNet broadcast five Raptors games and fifty-two NBA games featuring U.S. teams. Based on those figures, the licensee claimed that live basketball programming represented, on average, approximately 2% of the programming offered by TSN and SportsNet, respectively. While The Score does provide some live sports coverage, it is primarily dedicated to the

broadcast of sports results and information. In the licensee's view, given the limited amount of live basketball games broadcast by TSN, SportsNet and The Score as well as the large surplus of NBA games available for broadcast, approval of this application would not make Raptors NBA TV competitive with TSN, SportsNet, or The Score.

9. The licensee further contended that the broadcast environment for sports specialty services has changed substantially since 2001 when the Commission, in Decision 2001-540, authorized Raptors NBA TV to devote 5% of its program schedule to live basketball games. Specifically, the licensee cited the following Category 2 services:
 - GoL TV (originally known as The Soccer Net)², which is dedicated to soccer, has no restriction on the amount of live event programming that it may broadcast.
 - As a result of a licence amendment approved in 2005, Fox Sports World Canada³, which is dedicated to cricket, rugby and soccer, has no restriction on the amount of live cricket, rugby and soccer programming that it may broadcast.
 - Stampede (originally known as Lonestar II)⁴, an unlaunched service that will be dedicated exclusively to programs with a country or western theme, may devote up to 15% of its programming in each broadcast year to professional sports and amateur sports programs with no restriction on the amount of live sports that it may broadcast.
 - ZTV⁵, an unlaunched service that will be dedicated to programming targeted to Canadians between the ages of 18 and 29, may devote up to 15% of its programming in each broadcast year to professional sports and amateur sports programs with no restriction on the amount of live sports that it may broadcast.
10. Finally, the licensee stated that most of the live basketball games broadcast by Raptors NBA TV would be NBA games broadcast in HD. The licensee submitted that, given audience interest in basketball games presented in HD, approval of this application would encourage subscribers to convert to HD and accordingly support the Commission's objective of increasing HD content.

Interventions

11. The Commission received interventions in support of this application by Canada Basketball as well as by Messrs. Simon Fund and Allan Wexler. In addition, Rogers and Score Network filed interventions in opposition to the application.

² *The Soccer Net – Category 2 specialty service*, Broadcasting Decision CRTC 2005-380, 3 August 2005

³ *Fox Sports World Canada – Licence amendment*, Broadcasting Decision CRTC 2005-4, 12 January 2005

⁴ *Lonestar II – Category 2 specialty service*, Broadcasting Decision CRTC 2005-85, 1 March 2005

⁵ *ZTV – Category 2 service*, Broadcasting Decision CRTC 2005-518, 21 October 2005

12. Canada Basketball stated that it has entered into an agreement with Maple Leafs Sports & Entertainment Ltd., the parent company of Raptors NBA TV, to encourage the growth of basketball in Canada at the grassroots level. In Canada Basketball's view, approval of this application would foster interest in basketball.
13. According to Messrs. Fund and Wexler, basketball does not receive adequate television coverage in Canada. They contended that approval of the application would support the growing number of basketball fans in Canada and the sport itself.
14. In their opposing interventions, Rogers and Score Network expressed concern that approval of this application would allow Raptors NBA TV to become directly competitive with the interveners' respective analog specialty services, contrary to the Commission's policy established in *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000 (Public Notice 2000-6), that a Category 2 service may not be directly competitive with an existing pay or specialty service, including any Category 1 service. The opposing interveners also contended that approval of this application would depart from the Commission's practice of restricting to 5% of their annual programming the amount of major North American sports that Category 2 licensees may broadcast.
15. Score Network indicated that it would support a revised condition of licence that permitted the licensee to broadcast live basketball games for up to 10% of its program schedule, provided that not more than an aggregate of 5% of the program schedule be dedicated to the broadcast of NBA and NCAA men's basketball games.

Licensee's replies

16. In response, the licensee maintained that approval of this application would not make Raptors NBA TV directly competitive with any existing pay or specialty television service, including any Category 1 service. The licensee pointed out that Raptors NBA TV is dedicated solely to the sport of basketball and reiterated that the three analog specialty sports services are general interest services that broadcast a wide variety of sports with basketball representing only a small portion of their respective program schedules. The licensee argued that the live basketball games broadcast by the analog specialty sports services are premium events while Raptors NBA TV is seeking authority to broadcast more live basketball programming in order to "satisfy the interests of avid basketball fans who desire more in-depth, wider scope basketball programming" than is currently being provided.

17. The licensee further argued that there is no established CRTC policy limiting the broadcast of live events by Category 2 sports services and that each application must be evaluated on its own merits and based on the particular circumstances of the environment in which the service operates. In this regard, the licensee submitted that, while Canadian viewers enjoy wide coverage of North American major league sports, such as hockey, they receive limited coverage of live basketball even though there is a substantial inventory of live basketball games available for national broadcast that are not being aired. In the licensee's view, these circumstances demonstrate that Raptors NBA TV should be permitted to broadcast more live basketball programming.

Commission's analysis and determination

18. In 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.
19. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an existing pay or specialty service including any 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.
20. In the present case, the Commission notes that Raptors NBA TV's mandate is to provide programming focused on basketball. Further, the Commission notes that there appears to be a great deal of basketball programming still available for broadcast and that the licensee has provided evidence of demand by its target audience for more live basketball programming. In the circumstances, the Commission finds that granting Raptors NBA TV additional flexibility to broadcast more live basketball programming would be appropriate in order to allow it to meet the needs of its target audience. The Commission is further satisfied that approval of the application would not make Raptors NBA TV directly competitive with the existing analog or Category 1 specialty sports services since those services are general interest sports services and Raptors NBA TV's focus will continue to be limited to basketball and basketball-related programming. The Commission considers that an increase to 10% of the broadcast year reasonably addresses the needs of the licensee for greater flexibility while meeting the concerns of analog and Category 1 specialty services respecting direct competition from Category 2 services.

21. In light of the foregoing, the Commission **approves in part** the application by Toronto Raptors Network Ltd. to amend the broadcasting licence for the national, Category 2 specialty programming undertaking Raptors NBA TV and its related high definition version Raptors NBA TV HD. The Commission replaces the current condition of licence c) with the following condition of licence:

c) The licensee may broadcast live basketball games representing up to a maximum of 10% of its program schedule.

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>