



Broadcasting Decision CRTC 2007-372

Ottawa, 15 October 2007

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

*Application 2007-0212-7, received 12 February 2007
Public Hearing in the National Capital Region
27 August 2007*

Real Estate 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 Real Estate TV, a national, English-language Category 2 specialty service that would offer homeowners a variety of informative and entertainment programming. Viewers preparing to sell will gain invaluable knowledge through renovation programs and the proper presentation of their home. Home buyers will get tips on financing, real estate brokers, lawyers, et al.
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 two interventions opposing this application, from Alliance Atlantis Communications Inc. (Alliance Atlantis) and CanWest MediaWorks Inc. (CanWest), and general comments from Astral Television Networks, a division of Astral Broadcasting Group Inc. (Astral).
4. Alliance Atlantis owns, through its licensee subsidiary HGTV Canada Inc., Home and Garden Television (HGTV), a national, English-language Category 1 specialty television service that provides advice and instruction about homes and gardens. Alliance Atlantis also produces Canadian game shows and Canadian dramas which have building and remodelling, decorating and interior design, gardening and landscaping, or crafts and hobbies as themes. Alliance Atlantis opposed the licensing of Real Estate TV, on the grounds that it would be directly competitive with HGTV. Alliance Atlantis argued that

Real Estate TV, as proposed, would largely duplicate HGTV's programming schedule. It further noted that, should the proposed service also include design programming, the proposed service would overlap with HGTV's schedule by 85%.

5. 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.
6. Astral proposed that Real Estate 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.
7. The applicant did not reply to the interventions.

Would Real Estate TV be directly competitive with existing Category 1 or analog pay or specialty services?

8. The Commission notes that the applicant's proposed nature of service definition is very similar to that of HGTV, as set out in Broadcasting Decision 2004-16. 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 service HGTV.

Conclusion

9. Based on the foregoing, the Commission concludes that the proposed Category 2 service would compete directly with Alliance Atlantis'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 Real Estate TV.

Secretary General

Related documents

- *Home and Garden Television Canada – Licence renewal*, Broadcasting Decision CRTC 2004-16, 21 January 2004

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>