



Broadcasting Public Notice CRTC 2007-120

Ottawa, 29 October 2007

Addition of College Sports Television to the lists of eligible satellite services for distribution on a digital basis

*The Commission **approves** a request to add College Sports Television (CSTV) to the lists of eligible satellite services for distribution on a digital basis and amends the lists of eligible satellite services accordingly. The revised lists are available on the Commission's Web site at www.crtc.gc.ca under "Industries at a Glance."*

Introduction

1. The Commission received a request dated 16 February 2007 from Rogers Cable Communications Inc. (Rogers) for the addition of College Sports Television (CSTV), a non-Canadian, English-language satellite service, to the lists of eligible satellite services for distribution on a digital basis (the digital lists). Rogers described the service as follows:

CSTV is the first 24-hour network in the United States devoted exclusively to broadcasting college sports programming. It televises 35 men's and women's college sports, including football, basketball, baseball, hockey, lacrosse, soccer, wrestling and volleyball, from every major conference in the United States.
2. The Commission's approach to the addition of English- and French-language non-Canadian services is set out in Public Notice 2000-173. Under this approach, proposals for the inclusion of a non-Canadian service on the lists are assessed in the context of the Commission's policy that generally precludes the addition of new non-Canadian satellite services if the Commission determines them to be either totally or partially competitive with Canadian specialty or pay television services, including all specialty and pay television programming undertakings whose licence applications have been approved by the Commission.
3. The Commission uses a case-by-case approach to determine whether or not a non-Canadian service proposed for addition to the lists would be competitive with an authorized Canadian service. Factors considered by the Commission in its assessment of the competitiveness of a non-Canadian service include the nature of the service, its language of operation, the genres of programming provided by the Canadian services with which it might compete, and its target audience. The Commission also considers relevant the extent to which a proposed non-Canadian service may be a program supplier for an authorized Canadian service.

4. The Commission assesses the factors noted above in order to determine the amount of overlap between the sponsored non-Canadian service and the relevant Canadian services, and thus the extent to which the non-Canadian service might compete with the Canadian services. The more significant the overlap, the more likely it is that the non-Canadian service will be found to be competitive with the Canadian services.
5. In Broadcasting Public Notice 2007-37, the Commission called for comment on the proposed addition of CSTV to the digital lists under the approach set out in Public Notice 2000-173. The Commission stated that it would rely primarily on the comments filed to identify the Canadian pay and specialty services with which CSTV might be totally or partially competitive and which therefore should be included in the assessment of the competitiveness of the service. The Commission asked that parties wishing to argue that CSTV would be competitive name the specific Canadian pay or specialty service(s) with which they considered the service would compete, and provide details such as nature and genre of service, programming schedule, programming sources and supply, and target audience.

Comments received

6. The Commission received three comments from individuals in support of the addition of the service to the digital lists, and one comment in opposition from The Score Television Network Ltd. (The Score). Those who supported the request generally indicated that the addition of sports viewing choices should be encouraged and that services such as CSTV encourage athletic participation and offer coverage of several sports that do not get regular airtime on other channels. One individual indicated that the addition of CSTV may assist in “grabbing back the significant viewing market that uses the internet to obtain sports information.”
7. The Score submitted that the overlap between CSTV and The Score with respect to target audience, genre, language of programming and program supply is evidence of the direct and significant competition that CSTV would represent to The Score. In this regard, The Score submitted that both services are English-language services, the programming of both services is 100% dedicated to programming in the sports genre, both target their programming to the same demographic (e.g., males aged 18-34 years old) and the programming schedules overlap, with both services placing an emphasis on premier college sports, i.e., men’s basketball and men’s football.
8. With regard to programming overlap, The Score stated that, during the seven months ending March 2007, 47% of its live event sports programming consisted of collegiate sports. The Score further submitted that the broadcast of live events is an important element of its programming schedule, noting the importance of this type of programming in terms of its audience and its advertising revenue. In addition, The Score submitted that CSTV’s sports news and information programming is directly competitive with The Score’s programming in that same genre.

9. The Score also argued that the introduction of CSTV into Canada may result in a significant migration of U.S. college sports programming, as the rights for such programming could be taken from Canadian specialty services such as itself and awarded to CSTV. It further argued that Canadian services may incur a material increase in the rights fees paid for such programming if CSTV were added to the digital lists.

Reply from the sponsor

10. Rogers provided comments from CSTV with its reply. CSTV rejected The Score's assertion that it would be partially or totally competitive with The Score, and submitted that the Commission should dismiss The Score's arguments for reasons set out below.
11. CSTV submitted that it is devoted almost entirely (i.e., 85% of its schedule) to the telecast of live collegiate-level sports events or repeat showings of such events, whereas The Score is a headline sports service devoted almost entirely to sports news, information and reporting, with less than 15% of its programming schedule dedicated to sports events of any kind.
12. Further, CSTV stated that an extremely small percentage of its programming schedule includes programs that would be comparable to programming on The Score. In this regard, CSTV estimated that less than 2% of The Score's yearly programming schedule is devoted to sports events involving U.S. colleges. Where duplication exists in the form of coverage of NCAA football and basketball games, CSTV noted that almost none of the specific football and basketball games that The Score listed on its schedule for December 2006 and March 2007 were covered by CSTV. Further, a significant majority of the sporting events covered by CSTV throughout the year involve a variety of other US college sports (e.g., equestrian, field hockey, fencing, squash, gymnastics and rugby) that receive little or no airtime on any Canadian specialty service. CSTV added that The Score did not identify a single specific game or event that had been broadcast by both CSTV and The Score.
13. CSTV argued that its news and information programming is focused on completely different teams, individuals and sporting events from those covered by The Score, and is clearly distinct from the news and information programming provided by the Score.
14. CSTV also noted that approximately one third of its events are women's sporting events, whereas no service in Canada offers on-going access to such a wide range and large number of these types of events.
15. CSTV added that the Commission has over the years approved the addition of a number of sports-related services, including Speed Channel, NFL Network and Eurosportnews, even though some of these services had programming that was duplicated on Canadian pay and specialty services.

16. Given the small amount of US college sports programming that is aired on The Score, CSTV stated that there would be a negligible impact on The Score's ability to acquire rights to US college programming if CSTV were added to the digital lists. Further, CSTV noted that it had provided an undertaking that it "does not currently nor will it in the future, deal in rights to programming in a manner that would unduly preclude a Canadian programming undertaking from acquiring the programming aired on CSTV."

Commission's analysis and determinations

17. As indicated above, The Score was the only party to file comments arguing that CSTV would be competitive. The Score is described in its nature of service as "a national English-language specialty television service that is dedicated to the broadcast of sports results and information in a video and text form." The programming categories that are part of its nature of service include analysis and interpretation/long form documentary (no more than 10% of its schedule), news, professional sports, amateur sports and general entertainment and human interest. Its conditions of licence stipulate that hours of programming devoted to live sports events coverage must not exceed 15% of the quarterly broadcast schedule. In addition, sports results must be continually displayed on screen with all programming on The Score.
18. The Commission's review of information relating to CSTV indicates that the service is devoted exclusively to US collegiate sports, and includes primarily live event coverage, with the remaining programming devoted to documentaries, sports news programs and talk shows relating to collegiate sports (not amateur sports at other levels or professional sports). CSTV features live collegiate sporting events, as well as highlights from or analysis of such events.
19. Based on the nature of service provided by the two services, the Commission considers that CSTV is more specifically targeted than The Score, and occupies a considerably narrower programming niche. In the Commission's view, CSTV's focus on live coverage and other programming relating exclusively to collegiate sports restricts the scope of its service and its competitive impact on services such as The Score. Given that CSTV's sports coverage is limited to collegiate sports, the opportunity for overlap with sport services presenting a wide array of professional and amateur sports is minimal.
20. The Commission acknowledges that there is some overlap between the two services with respect to collegiate sports coverage. However, the Commission considers such overlap to be minimal. In this regard, it notes that a summary of The Score's "aggregate monthly live event collegiate sports programming" from September 2006 to March 2007, filed by The Score, indicates that approximately 5.5% of The Score's overall schedule consisted of collegiate sports programming.¹

¹ The Score did not specify how much of its live collegiate sports programming was Canadian and how much was from the US.

21. In light of the above, the Commission concludes that the overlap between CSTV and The Score is minimal and that CSTV is sufficiently different in terms of nature of service, including service orientation, programming genres and programming, to be considered neither partially nor totally competitive with The Score.
22. As to The Score's concerns with respect to programming rights, the Commission notes that, under the terms of its conditions of licence, live sports events coverage on The Score is limited to 15% of its overall schedule and must consist of not less than 50% Canadian live sports events during the prime time period over the broadcast year. Given CSTV's focus on live US collegiate sports events, the Commission considers that there would likely be few instances where the two services would compete for the rights to the same live events. In fact, a comparison of the schedules from both services indicates that there was no duplication in the specific programs presented during the periods for which the schedules were provided.
23. The Commission also notes that, under the approach established in Public Notice 2000-173, the sponsor of a non-Canadian service must provide an undertaking from the non-Canadian service provider that it does not hold, will not obtain, nor will it exercise, preferential or exclusive programming rights in relation to the distribution of programming in Canada. The Commission notes that Rogers, the sponsor of CSTV, filed such an undertaking from the non-Canadian service provider.
24. In light of the above, the Commission **approves** the addition of CSTV to the digital lists and amends the lists of eligible satellite services accordingly. The lists of eligible satellite services are available on the Commission's Web site at www.crtc.gc.ca under "Industries at a Glance" and may be obtained in hard copy on request.

Secretary General

Related documents

- *Call for comments on the proposed addition of College Sports Television to the lists of eligible satellite services for distribution on a digital basis, Broadcasting Public Notice CRTC 2007-37, 5 April 2007*
- *Call for proposals to amend the lists of eligible satellite services through the inclusion of additional non-Canadian services eligible for distribution on a digital basis only, Public Notice CRTC 2000-173, 14 December 2000*

This document 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>