



TORONTO RAPTORS NETWORK LTD.

307 Lakeshore Boulevard West
Toronto, Ontario
M5A 1C1

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FILED ELECTRONICALLY

Ms. Diane Rhéaume
Secretary General
Canadian Radio-television
and Telecommunications Commission
1 Promenade du Portage
Les Terrasses de la Chaudière
Central Building
Gatineau, Quebec
K1A 0N2

Dear Ms. Rhéaume:

RE: Application by Toronto Raptors Network Ltd. ("TRNL") to Amend the License of Category 2 Specialty Television Service, Raptors NBA TV

1. Introduction

(a) This application is filed by TRNL in respect of:

1. Raptors NBA TV, a Category 2 digital specialty television service, licensed by the Commission on December 14, 2000 in Decision CRTC 2000-627; and
2. Raptors NBA TV HD, the high definition version of Raptors NBA TV launched by TRNL on November 1, 2005 pursuant to Decision CRTC 2005-486 in which the Commission allowed TRNL to distribute a high definition version of Raptors NBA TV.

(b) Presently, by condition of licence pertaining to its nature of service, Raptors NBA TV and Raptors NBA TV HD are limited to broadcasting live basketball games representing up to a maximum of 5% of its program schedule.

(c) In this application, for the reasons outlined below, TRNL respectfully requests an amendment to the existing conditions of licence of Raptors NBA TV, and Raptors NBA TV HD, by deleting paragraph c) of the condition of licence pertaining to the nature of service and replacing it with the following:

- c) **The licensee may broadcast live basketball games representing up to a maximum of 15% of its program schedule.**

2. Summary

The Commission's approval of this application:

- *Will drive Digital Penetration and High-Definition Conversion;*
- *Will create a positive contribution to the Canadian Broadcasting System;*
- *Will assist Raptors NBA TV in more fully carrying out its nature of service; and*
- *Will Not be directly competitive with and will not harm other sports services*

3. Background: Basketball in Canada - An Update

(a) Since TRNL applied to the Commission for a category 2 digital specialty channel devoted to basketball, Canadians have demonstrated an increased interest in participating in the sport of basketball and for watching live basketball games on television.

(b) From a participant perspective, in 2004, 55% of the Canadian adult population took part in a sport (as an active participant, volunteer or attendee). Of that 55%, approximately 10.5% took part in the sport of basketball¹.

(c) From a viewership perspective, each year, more people are watching televised live basketball games. During the 2004-2005 NBA basketball season, audiences for live basketball games for viewers 2+ experienced an 8% increase over audience levels for the 2003-2004 basketball season. Even more striking, audiences for viewers 2+ on Raptors NBA TV increased 23% in the same time period.

(d) Basketball appeals to all Canadians regardless of nationality or ethnicity. Recent data shows that 42% of Raptors fans associate themselves with a nationality or ethnic background other than Canadian. Basketball is becoming the sport that truly represents the Canadians of today.

(e) As a result of the increased popularity of basketball in Canada, in spring 2004, Maple Leafs Sports & Entertainment Ltd. ("MLSE") (the parent company of TRNL) licensed control of Canadian broadcast rights in games of the National Basketball Association (the "NBA") from NBA Properties, Inc., making basketball programming in Canada a true Canadian product. By virtue of the acquisition of these rights there are now significantly more games available to be shown in Canada than there was when Raptors NBA TV was first launched. Many of these games have been aired on Raptors NBA TV and, if the Commission approves this application, even more live games previously unavailable to Canadians will be aired on Raptors NBA TV.

(f) In addition, to further support the sport of basketball in Canada and to encourage participation by Canadians in the sport of basketball, MLSE and Canada Basketball have entered into a deal in principle for MLSE to sponsor and support Canada Basketball initiatives and programs. In particular, MLSE intends to support Canada Basketball's "Be One" program, a national membership program that unites players, coaches, administrators, and officials from the local to the national level, strengthening the sport of basketball in Canada and taking it to a whole new level. If the Commission approves this application, MLSE's support of Canada Basketball would be able to include, from a broadcast perspective, Raptors NBA TV coverage of Canada Basketball programs (for example, the National Championships).

(g) Canadians have demonstrated that they want to watch basketball on television, and, more particularly, that they want to watch live basketball games on television. In 2004-2005, live basketball games represented only 5% of Raptors NBA TV's broadcast schedule. However, in the same year, live basketball games represented a disproportionate 35% of Raptors NBA TV's viewership.

¹ *Strengthening Canada: the Socio-economic Benefits of Sport Participation in Canada, Report, Conference Board of Canada, Report: August 2005, page 5*

(h) TRNL appreciates that Canadians crave more quality basketball television. TRNL demonstrated its confidence in the appetite of Canadians for quality basketball programming by, on November 1, 2005, successfully launching Raptors NBA TV in high definition. Raptors NBA TV is the first and only digital specialty television channel to launch a high definition counterpart.

4. More Live Basketball Games on Raptors NBA TV will drive digital penetration and high definition conversion

(a) In Canadian television, the sports genre is a highly attractive field and, as evidenced by the number of services in the sports genre currently broadcasting in Canada, is a genre for which the Canadian consumer's appetite continues to grow. TRNL submits that Canadians have demonstrated that they want live sports event coverage and will support those services that provide it.

(b) As submitted above, ratings show that during the 2004-2005 basketball season, Raptors NBA TV 2+ audiences increased from an average 345 viewers during regular non-game programming to 2,868 viewers during live basketball games. TRNL submits that these trends show that increased live basketball coverage on Raptors NBA TV will make digital television more attractive to viewers, will help support the viability of all digital services and will help promote and drive all digital services, thus furthering the Commission's policies supporting digital conversion.

(c) Raptors NBA TV's licence conditions currently restrict Raptors NBA TV to broadcasting live basketball games representing up to a maximum of 5% of its program schedule. Raptors NBA TV HD is faced with the same restrictions with respect to live basketball games as its standard definition counterpart. Should the Commission approve this application, the vast majority of the increase in live basketball games will be NBA games broadcast in high definition. The audience trends show that Canadians will want to watch those games, thus encouraging high definition conversion. Additionally, the Commission's approval of this application will notably increase the amount of high definition content available for distribution, thus supporting the Commission's objectives of increasing high definition content and achieving maximum high definition conversion.

5. More Live Basketball Games on Raptors NBA TV will create a positive contribution to the Canadian Broadcasting System

(a) Viewership patterns on Raptors NBA TV demonstrate that Canadians watch live basketball games. In addition, 30% of all viewer correspondence (telephone calls, mail, e-mail) received by Raptors NBA TV, is from viewers requesting more live basketball games. Canadian viewers want to watch more live basketball games.

(b) Currently, notwithstanding the number of conventional and sports specialty services broadcasting in Canada, there is still a great deal of basketball inventory that is not broadcast by a Canadian broadcaster due to lack of scheduling capacity. The services in the sports genre currently broadcasting (whether analog or digital) in Canada simply do not have enough programmable hours to offer Canadians the full breadth of live basketball programming that is available for broadcast. As illustration, in the 2005-2006 season there were 1280 NBA games available for broadcast by Canadian broadcasters. Only 480 were licensed for broadcast leaving 800 available for broadcast. If the Commission approves this application, Raptors NBA TV will have the capacity to broadcast more of these games.

(c) In addition, if this application is approved, Raptors NBA will have the capacity to broadcast more games of the Women's National Basketball Association (WNBA) live (most are now broadcast on a tape-delayed basis)². The broadcast of live WNBA games will contribute to increased diversity in the Canadian broadcasting system since live programming related to women's sports is underrepresented in the sports coverage currently provided by Canadian broadcasters.

² WNBA games were broadcast by WTSN (a Category 1 specialty television service devoted entirely to sports programming featuring female athletes and participants licensed in Decision CRTC 2000-457) prior to its cessation of service at the end of September 2003.

(d) Accordingly, allowing Raptors NBA TV to increase its live basketball programming will offer Canadian viewers more of what they want and will contribute to increased diversity in the Canadian broadcasting system, all to the benefit of the Canadian broadcasting system.

(e) Additionally, there is concern that if a Canadian broadcaster cannot offer Canadian viewers the live basketball games that they wish to see, Canadian basketball fans will increasingly lobby for access to NBA League Pass, a U.S. digital subscription basketball programming package of NBA regular season games that are played outside subscribers' local viewing area. For this reason, as well, allowing Raptors NBA TV, a Canadian specialty service, to provide more live basketball games to Canadians clearly benefits the Canadian broadcasting system.

(f) TRNL submits that allowing Raptors NBA TV to provide up to a maximum of 15% live basketball games in its program schedule will add significant diversity to the system by allowing a Canadian broadcaster to give Canadian viewers programming that cannot be seen on another Canadian service. In addition, given that live basketball is programming that Canadians have proven interested in, more live basketball coverage on Raptors NBA TV and Raptors NBA TV HD will help drive digital penetration and high definition conversion, all to the benefit of the Canadian broadcasting system.

6. *More Live Basketball Games on Raptors NBA TV will Assist Raptors NBA TV in more fully carrying out its nature of service.*

(a) In Decision CRTC 2000-627, the Commission granted a licence to TRNL to provide, under section (a) Nature of Service:

A national English language Category 2 specialty television service devoted to the Toronto Raptors and NBA basketball. Programming will include historical events, profiles of players, panel and call-in shows, classic basketball games, interviews with Raptor players, coaches and management, statistics, insights and analysis on the current basketball scene from a Raptors perspective, information as to the purchase of merchandise, tickets and collectibles, and a wide range of other topics related solely to the Raptors and the NBA. In addition, there will be a small amount of programming related to general basketball matters, including leagues outside the NBA and basketball instruction.

(b) In essence, Raptors NBA TV is a digital specialty service devoted to the sport of basketball. The Commission's approval of this application will not in any way change the nature of service of the channel. ***Raptors NBA TV will continue to be a service devoted to the sport of basketball and only to the sport of basketball.*** In fact, the Commission's approval of this application will assist Raptors NBA TV in more fully carrying out the nature of service the Commission has licensed it by bringing more live basketball games, the most desirable basketball programming, to Canadians. In the sport of basketball there is nothing as pure as a live basketball game. Allowing Raptors NBA TV to broadcast more live basketball games will enable Raptors NBA TV to be a more complete basketball channel, thus allowing it to more fully deliver the mandate the Commission has entrusted to it.

7. *More Live Basketball Games on Raptors NBA TV Will Not Render the Service Directly Competitive With Other Services and will Not Harm Other Services*

(a) Consistent with the Commission's *Licensing Framework policy for new digital pay and specialty services*, PN CRTC 200-6, TRNL submits that an increase in live basketball programming and the Commission's approval of this application will not render Raptors NBA TV directly competitive with any existing analog specialty service or Category 1 digital specialty service.

(b) All three analog sports specialty services are ***general interest sports*** specialty services, broadcasting live sporting events, news, interviews, features, insights and analysis and other programming with respect to ***all sports***. On these services, basketball represents a very small portion of their programming as compared to other major league sports. As illustration, in the 2005-06 season, TSN

will broadcast 71 National Hockey League games nationally and only 15 Toronto Raptors games and 3 NBA games featuring U.S. teams. In the 2005-06 season, Rogers Sportsnet will broadcast 120 Toronto Blue Jays Games and only 5 national Toronto Raptors games and 52 NBA games featuring U.S. teams. Live basketball programming, on average, represents approximately a mere 2% of TSN and Rogers Sportsnet's programmable hours. Live basketball games can by no means be considered a focal point of the programming on these services. By contrast, Raptors NBA TV is a service devoted **only to the sport of basketball**. As evidenced above, due to the large surplus of NBA games available for broadcast, approval of this application will not create increased competition for live event basketball programming.

(c) On August 31, 2001, the Commission released Decision CRTC 2001-540 in which the Commission approved an amendment to the licence of Raptors NBA TV to permit a maximum 5% of its broadcast schedule to be devoted to the broadcast of live basketball games (TRNL's original request was for 10%). In reaching its decision, the Commission considered that: (i) increasing Raptors NBA TV's permitted live basketball coverage to 10% could directly impact an already competitive market environment for live event NBA rights; and (ii) that there should be consistency in permitted live event sports coverage among all Category 2 digital sports specialty services.

(d) As evidenced above, there is currently a surplus of live basketball product available for broadcast. The Commission's approval of this application will enable Raptors NBA TV to broadcast some of that surplus product and to air programming that other services are choosing not to broadcast. Even with permitted live basketball coverage at 15% of the broadcast schedule, there will still remain much surplus product (hundreds of games) that, if they so choose, other Canadian broadcasters could licence for broadcast. Accordingly, the Commission's approval of this application will not add to the competition for broadcast rights. For the same reasons, the Commission's approval of this application will not drive up rights fees for other broadcasters for live basketball programming.

(e) In Decision CRTC 2001-540, the Commission stated that:

"competition among Category 2 specialty services is wholly consistent with its policy concerning such services. Fair competition among Category 2 services is best ensured by having restrictions on live event coverage that apply consistently. 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."

(f) Since the Commission released Decision CRTC 2001-540 the sports specialty broadcast landscape has changed significantly. Presently, there are ten licensed and launched Category 2 digital sports specialty services and three Category 2 digital sports specialty services that have been approved but not yet authorized for launch.

(g) In licensing these ten digital specialty services, the Commission has imposed varying restrictions on the amount of live sports coverage permitted. For example, GOL TV, a service dedicated to the sport of soccer has no restrictions on the amount of live event programming it may broadcast³. In addition, Fox Sports World Canada is permitted to broadcast an unlimited amount of live coverage of cricket, rugby and soccer and to dedicate 5% of the broadcast year to the live coverage of other non-major league sports.⁴

(h) Furthermore, there are currently several non-sports Category 2 digital specialty services (launched and not yet launched) that have been licensed by the Commission that may broadcast varying amounts of live sport coverage. For example, Stampede⁵, a service dedicated to programs with a country or western theme, and ZTV⁶ (not yet launched), a service dedicated to programming targeted to Canadians between the ages of 18-29 (a key demographic for live event sports programming), are each

³ Decision CRTC 2005-380

⁴ Decision CRTC 2005-4

⁵ Decision CRTC 2001-700

⁶ Decision CRTC 2005-518

permitted to broadcast programming from subcategories 6(a) and 6(b) provided that no more than 15% of all programming broadcast is drawn from those subcategories. Within such 15% restriction, there are no limits on the amount of live event programming that Stampede or ZTV may broadcast. Arguably, Stampede may broadcast major league live event sports programming provided the events chosen feature country or western athletes or a team from a country or western region. Other than demographics, ZTV has no restrictions on the nature of the live sporting events it may broadcast.

(i) As evidenced above, since the Commission released Decision CRTC 2001-540 on August 31, 2001, the digital specialty service landscape has become considerably more competitive and it appears that the Commission has adopted a more flexible approach to the licensing of Category 2 digital specialty services with regards to live sports coverage. Category 2 digital sports specialty services currently enjoy varying levels of permitted live event sports coverage and Category 2 non-sports digital specialty services enjoy an even greater flexibility for the broadcast of live sports.


(j) Under these circumstances, given that Canadians want more live basketball programming and, given that there is a surplus of live basketball inventory in Canada, Raptors NBA TV should benefit from a more flexible approach and should be able to provide a greater amount of live event coverage to Canadian viewers.

8. Conclusion

TRNL respectfully submits that the Commission's approval of this application will drive digital penetration and high definition conversion, will create a positive contribution to the Canadian broadcasting system and will allow Raptors NBA TV to more fully carry out the nature of service licensed to it by the Commission. Furthermore, TRNL submits that approval of this application will not render Raptors NBA TV directly competitive with, nor will it harm, any existing sports specialty service. For all the reasons noted above, TRNL respectfully submits that the Commission's approval of this application is consistent with, and will help promote, the Commission's policies respecting digital television.

We would be pleased to respond to any questions the Commission may have regarding this application.

Yours very truly,



Richard A. Peddie
President and CEO

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