



Broadcasting Decision CRTC 2005-328

Ottawa, 18 July 2005

Trinity Broadcasting Network of Canada Inc. Across Canada

*Application 2004-0903-8
Public Hearing in Vancouver, British Columbia
28 February 2005*

Trinity Broadcasting Network of Canada – 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 Trinity Broadcasting Network of Canada Inc. (Trinity) for a broadcasting licence to operate a national English- and French-language Category 2¹ specialty programming undertaking to be known as Trinity Broadcasting Network of Canada.
2. The applicant proposed to offer a service consisting of balanced religious programs from a variety of Christian perspectives. The applicant stated that 80% of its programming would be in English and 20% would be in French. All of the programming would be drawn from the following categories, as set out in Schedule 1 to the *Specialty Services Regulations, 1990* (the Regulations), as amended from time to time:

- 1 News
- 2 (a) Analysis and interpretation
- 4 Religion
- 8 (b) Music video clips
(c) Music video programs

Interventions

3. The Commission received numerous interventions in support of this application, while Vision TV: Canada's Faith Network/Réseau religieux canadien (Vision), Crossroads Television System (Crossroads) and The Miracle Channel Association (MCA) opposed the application.

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.

4. Vision is the licensee of the multi-faith specialty television programming undertaking known as Vision TV. Crossroads is the licensee of CITS-TV Hamilton, and MCA is the licensee of CJIL-TV Lethbridge. Both CITS-TV and CJIL-TV are licensed as over-the-air television stations that are devoted to religious programming.
5. All three opposing interveners expressed concern about the applicant's relationship with the Trinity Broadcasting Network of the United States (TBN). In this regard, MCA questioned whether the proposed service would be controlled by non-Canadians.
6. The opposing interveners also contended that the proposed service would have a negative impact on existing Canadian undertakings that broadcast religious programming. According to these interveners, religious broadcasting in Canada is a much smaller niche market than in the United States. In their view, the Canadian religious broadcasting market is already well served.
7. Vision further contended that the applicant's proposed service would be directly competitive with Vision TV. MCA raised questions about the applicant's Registered Charity Information record with respect to the Canada Revenue Agency.

Applicant's reply

8. In reply, Trinity acknowledged that TBN would provide funding as well as some of the materials and expertise needed to develop and successfully launch Trinity Broadcasting Network of Canada. The applicant nevertheless submitted that it would be independent from TBN and that, in accordance with *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 (the Direction), at least 80 per cent of its board members would be Canadians ordinarily residing in Canada at all times.
9. Trinity contended that there is a need in Canada for the programming that would be offered by the proposed Trinity Broadcasting Network of Canada service, a need that is presently not filled by any of the licensed religious broadcasters. The applicant further submitted that TBN's vast experience in working as an umbrella organization with broadcasters that provide local religious programming in other countries would be beneficial to the proposed service. Its proposed service, through its relationship with TBN, would provide Canadian Christians with an opportunity to influence the world.
10. In response to MCA's questions regarding its Registered Charity Information record with respect to the Canada Revenue Agency, the applicant stated that it had been audited twice by the Charitable Division of the Canada Revenue Agency and that no discrepancies or violations were found.

Commission's analysis and determination

11. 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. While the Commission does not consider the impact that a new Category 2 service might have on an existing Category 2 service, it does seek to ensure that newly licensed Category 2 services do not compete directly with any existing pay or specialty television service, including any new Category 1 service.
12. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, and Public Notice CRTC 2000-171-1, 6 March 2001 – *Corrected Appendix 2* (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, although not with an existing Category 2 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.
13. In the present case, the applicant stated that the proposed Trinity Broadcasting Network of Canada service would focus on a Christian perspective rather than on a multi-faith perspective, and that the service would provide bilingual religious programming. The Commission notes that the proposed service would consist of religious programs from a variety of Christian perspectives and that its programming would only be drawn from the following categories: 1 (News), 2(a) (Analysis and interpretation), 4 (Religion), 8(b) (music video clips) and 8(c) (Music video programs). In comparison, the specialty television programming undertaking known as Vision TV and the television programming undertakings CITS-TV and CJIL-TV offer more broadly-based religious services.
14. The Commission further notes that, while stations operated by MCA and Crossroads are available both over-the-air and on basic cable service in the communities that they serve, and Vision TV enjoys carriage on the basic service of most cable systems, the service proposed by Trinity will be carried only on a digital basis at the discretion of distributors thus minimizing any financial impact on existing Canadian undertakings that broadcast religious programming.
15. In light of the above, the Commission is satisfied that the proposed Trinity Broadcasting Network of Canada service will not be directly competitive with any analog pay or specialty or existing Category 1 service, including Vision TV.
16. The Commission notes that Trinity will have a business relationship with TBN whereby it will provide programming, technology and other support to Trinity. The Commission also notes Trinity's commitment to comply with the Direction by ensuring that a minimum of 80% of the directors on its board of directors are Canadians ordinarily residing in Canada at all times. Trinity has confirmed that it will continue to be controlled by its board of directors. It has also confirmed that the Board of Directors will

govern all aspects of the licensee, including all financial and operational decisions. Based on this information, the Commission is of the view that Trinity is a qualified corporation within the meaning of the Direction.

17. In light of the above, the Commission is satisfied that the application complies with all applicable terms and conditions announced in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Trinity Broadcasting Network of Canada Inc. for a broadcasting licence to operate the national English- and French-language Category 2 specialty programming undertaking, Trinity Broadcasting Network of Canada.
18. 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.
19. The Commission reminds the applicant that it must adhere to the policy requirements stipulated in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, except for the balance requirement given that the proposed service is a single-faith service. In this regard, the Commission notes that the licensee is authorized for distribution only at the specific request of the subscriber. Distributors are not permitted to package Trinity Broadcasting Network of Canada in such a way that subscribers are obligated to purchase any other programming service. As set out in *Distribution and linkage requirement for Class 1 and Class 2 licensees*, Broadcasting Public Notice CRTC 2005-45, 11 May 2005 and in *Distribution and linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Public Notice CRTC 2005-46, 11 May 2005, Trinity Broadcasting Network of Canada may be offered on a “stand-alone” digital discretionary basis. It may also be offered in a package with other Canadian single or limited point of view religious services or with non-Canadian religious satellite services. Distributors are not permitted to offer services such as Trinity Broadcasting Network of Canada in packages with any other type of Canadian or non-Canadian programming service.
20. The Commission also reminds the applicant that it must operate in compliance with the Direction at all times.

Issuance of the licence

21. A licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:
 - the applicant has entered into a distribution agreement with at least one licensed distributor;

- 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 18 July 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; and
- the applicant has confirmed to the Commission, in writing, that if it intends to enter into any business arrangement, including programming supply agreement, shareholders agreements or licence trademark agreement, with TBN or another third party, it will first submit the proposed arrangement to the Commission for review to determine whether the proposed arrangement would cause the applicant to be in non-compliance with the Direction.

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 2005-328

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- and French-language Category 2 specialty programming undertaking devoted to religious programming from a variety of Christian perspectives.
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
 - 4 Religion
 - 8 (b) Music video clips
 - (c) Music video programs
4. No more than 80% of all programming broadcast during the broadcast week shall be in English.
5. No less than 20% of all programming broadcast during the broadcast week shall be in French.

For the purposes of the conditions of this licence, including condition of licence no. 1, *broadcast day* refers to the 24-hour period beginning each day at 6 a.m., or any other period approved by the Commission.