



Broadcasting Decision CRTC 2004-321

Ottawa, 6 August 2004

**Mark Campbell, on behalf of a corporation to be incorporated
Across Canada**

*Application 2003-1571-4
Public Hearing in the National Capital Region
17 May 2004*

The Maritime Channel – Category 2 specialty service

*In this decision, the Commission **denies** the application for a licence to operate a new Category 2 specialty television service.*

The application

1. The Commission received an application by Mark Campbell, on behalf of a corporation to be incorporated (Mark Campbell), for a broadcasting licence to operate a national, English-language Category 2¹ specialty television service to be known as The Maritime Channel.
2. The applicant proposed to offer a service that would be dedicated “exclusively to the broadcast of programs with a maritime or eastern theme”, offering a service “devoted to subject matter and themes related to the culture, style and lifestyle of maritime-related programming”. The applicant proposed to devote up to 75% of all programming to drama, and up to 15% to sports.

The interventions

3. The Commission received three interventions in support of this application. One intervention, submitted by CTV Specialty Television Inc. (CTV Specialty), opposed the application.
4. CTV Specialty was of the view that approval of this application would be contrary to the Commission’s policy that Category 2 specialty services should be directed to a specifically targeted demographic, which are not competitive with existing analog specialty or Category 1 services, and which increase diversity within the broadcast system.

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.

5. CTV Specialty submitted that, in its view, the proposed programming was neither narrowcast nor restricted to a particular genre, and therefore The Maritime Channel would be more accurately categorized as a general entertainment Maritime “superstation” and would be partly competitive with existing Category 1, specialty or pay services. The intervener noted that the proposed service would devote up to 15% of its scheduled programming to sports, which would be partially competitive with existing sports specialty services, and up to 75% to drama programming, which is readily available on other specialty, pay or conventional services.
6. CTV Specialty submitted that, as currently conceived, The Maritime Channel appears to be a general-interest service which would offer a broad range of programming similar to that offered by conventional stations. CTV Specialty further stated that, in its view, The Maritime Channel would not add to the diversity of the system, because the applicant has not proposed any innovative format of presentation, scheduling or repackaging that would differentiate The Maritime Channel from a general service. In the opinion of the intervener, many of the program examples provided by the applicant could be considered mainstream programs intended for a general audience, often with only a tenuous connection to the Maritimes. CTV Specialty submitted that the application should be denied unless the applicant chose to restrict its nature of service sufficiently to qualify as a true genre, and was prepared to limit its sports programming.

The applicant's reply

7. Mark Campbell is of the view that his application meets and/or exceeds the definition of a narrowcast service restricted to a particular genre, and cited the example of *The Western Channel*, Decision CRTC 2001-700, 16 November 2001 (Decision 2001-700). While the application for The Western Channel proposed a service offering a wide range of programming categories, all programming would have a country or western theme. Similarly, the applicant indicated that all programming on The Maritime Channel would be a niche service devoted to the broadcast of programs with a Maritime or eastern Canadian theme.
8. The applicant noted that, while CTV Specialty claimed that The Maritime Channel would be competitive with existing pay and specialty services, it failed to list which service and the competitive nature of the service. Mark Campbell also indicated, in respect of CTV Specialty's argument that The Maritime Channel would devote up to 15% of its programming to sports, that The Western Channel was allowed to offer the same amount of sports.
9. With respect to CTV Specialty's claim that The Maritime Channel would offer a number of programs that could be described as “mainstream” with only tenuous connections to the Maritimes, the applicant stated that these programs are all produced in Atlantic Canada or are programs with a Maritime or eastern Canadian theme. In the applicant's view, the programs are uniquely Maritime, with a uniquely Maritime point of view, sensibility and sense of humour. The applicant was of the view that such programs are narrowcast and directed to a specifically targeted demographic.

10. In the applicant's view, The Maritime Channel would add true diversity to the digital television environment, since there is no existing specialty channel entirely devoted to the culture and lifestyle of the Maritimes.

The 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 (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 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 Category 1 service.
12. Furthermore, the Commission noted in Public Notice 2000-6 that it "expects that Category 2 services will include services offering niche programming to particular audiences, services that provide multiple viewing opportunities for particular types of programming, and services that repack existing programming in creative ways."
13. 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, specialty or 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. The Commission also takes into account the potential impact on conventional television services.
14. In the present case, the Commission considers that many of the examples of proposed programming that the applicant claimed "would or could" be broadcast on The Maritime Channel, while produced in the Maritimes, are largely mainstream programs that do not have a Maritime or eastern Canadian theme reflecting the "culture and lifestyle of eastern Canada", as indicated by the applicant. Given the applicant's broad interpretation of its proposed nature of service, the Commission is not convinced that The Maritime Channel would provide a narrowcast service offering thematic programming in a well-defined Eastern genre as proposed by the applicant. The nature of service, as interpreted by the applicant, would allow the broadcast of programs that are available on existing services such as Bravo! or Showcase. In the Commission's view, this fact, coupled with the fact that the applicant proposed to devote up to 75% of its programming to drama, would allow it to become directly competitive with existing specialty services.

15. Accordingly, the Commission **denies** the application by Mark Campbell, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a national, English-language Category 2 specialty television service to be known as The Maritime Channel.

Secretary General

This decision is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>