



Broadcasting Decision CRTC 2008-76

Ottawa, 3 April 2008

YES TV Incorporated

Toronto, Ontario

Application 2007-1283-7, received 11 September 2007

Public Hearing in the National Capital Region

12 February 2008

High definition over-the-air digital television service in the Greater Toronto Area

*The Commission **denies** the application by YES TV Incorporated for a broadcasting licence to operate an English-language high definition over-the-air digital television service in the Greater Toronto Area.*

The application

1. The Commission received an application by YES TV Incorporated (YES TV) for a broadcasting licence to operate an English-language high definition (HD) over-the-air (OTA) digital television service to serve the Greater Toronto Area (GTA).
2. YES TV indicated that it would devote 126 hours each week to the broadcast of HD programming, and that at least 80% of the programming broadcast between 6:00 a.m. and 6:00 p.m., and at least 50% of the programming broadcast between 6:00 p.m. and midnight, would be Canadian programming. The applicant also indicated that the service would broadcast 28 hours of priority programming per broadcast week, a minimum of three hours per day of original, local programming, and a local daily newscast that would consist of 30-40% user-generated content (UGC).
3. The Commission received numerous interventions in support of, as well as several comments on this application. The Commission also received several interventions opposing the application. The interventions and the replies to the interventions can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

4. After examining the application, the interventions and the applicant's replies to the interventions, and after reviewing material filed by YES TV after the public hearing, the Commission considers that the primary issues relevant to its determinations relate to the viability of the applicant's business plan and to the feasibility of the applicant's proposed programming strategy, including its use of UGC to fulfill part of its commitment to the broadcast of local programming.

Viability of YES TV's business plan

5. A number of interveners, including the Canadian Association of Broadcasters, CTVglobemedia Inc. and CanWest MediaWorks Inc. (now Canwest Media Inc.), expressed concerns relating to the applicant's proposed business plan, citing in particular the lack of evidence for a demand for the proposed service.
6. In reply to these concerns, the applicant submitted that there is a demand for the service, since no station in Toronto currently focuses on its target demographic of 12 to 25 year olds, and also because broadcasters are not engaging youth in their programming and as such are losing this demographic to the Internet. The applicant submitted that, although the proposed broadcast model does not fit neatly within the existing framework of the broadcasting system, its objective is to provide an outlet for the considerable amount of user-generated video programming produced by members of the target demographic.
7. In considering the application for the service proposed by YES TV, the Commission required the applicant to provide a clear and solid business plan, including clear financial projections, so as to allow the Commission to determine whether the proposed service would be viable and thus warrant the use of limited broadcasting spectrum in Canada's largest television market. After examining the business plan provided by YES TV, the Commission is not convinced that the applicant has clearly demonstrated that the proposed service would be viable.
8. Firstly, the market research data that the applicant submitted to the Commission does not provide any direct evidence that supports the level of demand for the specific type of service contemplated in the business plan. Without supporting evidence of market demand, the Commission considers that the applicant's projected yearly audience shares are overly optimistic, particularly when compared to the audience shares currently being captured by existing OTA broadcasters in the GTA.
9. Moreover, as the applicant's projected revenues and profitability (profit before interest and taxes) are based on these projected audience shares, the Commission considers that they are also optimistic, particularly in light of the lower growth in revenues and profitability currently being experienced by the OTA broadcasters in the GTA.
10. Finally, the Commission is concerned that the applicant has not provided sufficient evidence¹ of the unequivocal availability of either the proposed \$1 million in equity financing or any additional financing to fund any cash flow short-fall should its financial projections not be met. Accordingly, the Commission considers that the applicant has not demonstrated its capacity to establish and operate a viable service.

¹ This also relates to documentation filed by the applicant on 29 March 2008.

Feasibility of the programming strategy

11. As noted above, the applicant proposed to broadcast 28 hours per week of priority programming on the service. The Commission notes, however, that major broadcast groups are only required to provide eight hours of priority programming per week. Given this huge disparity – three and a half times the amount of priority programming broadcast by the major broadcast groups –, and given the lack of evidence on the record demonstrating the feasibility of the proposal, the Commission is not convinced that the applicant has the necessary resources to provide this amount of priority programming, or that the programming produced would be of high quality.
12. Further, YES TV indicated that it would provide a local daily newscast that would consist of 30-40% UGC. The applicant stated that it would encourage community members to submit their UGC for broadcast and that all UGC would be reviewed daily by a full-time review board that would consist of both paid and volunteer members. The applicant also noted that the 30-40% of user-generated local news would be monitored by a producer before broadcast.
13. The Commission considers that the amount of UGC proposed by the applicant to meet its programming obligation is significant, and is not satisfied that enough broadcast quality UGC could be produced to meet the proposed commitment.

Conclusion

14. In light of the above, the Commission **denies** the application by YES TV Incorporated for a broadcasting licence to operate an English-language HD OTA digital television service in the GTA.

Secretary General

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>.