

The Vancouver CRTC hearings: pay-TV's battle to the death

VANCOUVER — With a fresh supply of Bronfman dollars in its treasury, First Choice Canadian Communications stormed in to knock Superchannels Ontario and Alberta out of the pay television mainstream in an east-west clash rivalling the Grey Cup, and held here just two days before the football classic.

Contending that the Canadian Radio-television and Telecommunications Commission (CRTC) had never intended to license two similar pay networks on a national basis, First Choice Counsel Peter Grant set out to re-interpret "regional" for both the CRTC commissioners and Superchannel's management. At his first hearing as CRTC chairman, André Bureau must have felt a bit awkward, having to help sort out the mess left him by predecessor John Miesel.

Weekend upset

But events in the pay-television world move fast. While much of the industry was en route to Vancouver, Finlay MacDonald, operator of Star Channel in the Atlantic provinces, announced that he was shutting down his license to lose money. By Monday (Nov. 28), the day before the hearing opened, both Superchannel and the Toronto Dominion Bank had independently appointed receivers to protect their respective losses: \$1.3 million in the case of the pay service; an undisclosed amount for the bank.

Events leading up to the hearing began in late summer

when the owners of the British Columbia license for a regional pay network, AIM, announced they could not get the service on the air. AIM approached Edmonton millionaire Dr. Charles Allard — owner of Superchannel Alberta and half-owner of Superchannel Ontario — with an offer to sell him controlling interest in the enterprise. Allard agreed, and the CRTC was contacted to approve the deal which would see the Superchannel signal temporarily picked up both in B.C. and the Yukon from the Anik transponder distributing the signal into Alberta. Allard pledged to spend money in the region and air a minimum level of B.C. product weekly on a separate satellite feed within a year.

Earlier in the summer, Superchannel won the right to sell its Alberta service in the Manitoba, Saskatchewan and N.W.T.'s market. At an earlier call for regional licenses to serve this part of the country, no local entrepreneurs came forward, and Allard saw this as an opportunity to complete his "association of regionals" into a national grid to better compete with First Choice. Integral parts of this grid were Star Channel in the Atlantic provinces, and AIM in B.C. But both now required some form of bail-out.

By September, the CRTC was faced with an application — at that time supported by Star Channel — to permit Superchannel Ontario's signal to be substituted in the Atlantic provinces until such time as the regional licensee reached 50,000

subscribers. The Commission was still pondering an application by Star Channel to enter the English-language Quebec market when it became clear that MacDonald's network could not afford to pay its Telesat bills.

When the CRTC permitted Allard to enter the other prairie provinces, First Choice appealed to the Federal cabinet, claiming that the Commission was not creating a series of independent regional pay services to complement the national licensee, but rather a full-scale competitor with common ownership to fight the national service head-on. The Cabinet did not overrule the Commission, but did ask it to reconsider the decision, and seek clarification as to what was meant by "regional pay networks" in the original decision.

As the industry awaited the Vancouver hearing, First Choice itself contacted the CRTC in late October with a separate appeal for approval of a refinancing deal it had struck with Bronfman subsidiary Hees International, the holding company which included Astral-Bellevue-Pathé. Within three weeks the CRTC had approved that deal which turned First Choice over to the new ownership.

Substantial interest

The crowd which gathered at the Sheraton Plaza 500 hotel ballroom on Nov. 29 was a veritable who's who in the cable/pay television industries. All had substantial interest vested

in the proceedings, as pay television, instead of the gold mine long predicted, seemed to have turned into a ton of lead destined to sink all who came in contact with it.

The CRTC had split its deliberations into four specific chapters in order to separate the concerns to be covered.

The first was a presentation by the local Vancouver group, Media Watch, which graphically portrayed the worst of pay television. Scenes of degradation and violence to women filled a 15-minute tape culled from First Choice, the only pay service available in B.C. Samantha Sanderson, of Media Watch, noted that she found it distressing that the Commission and the industry, almost a year after the infamous Playboy deal, had yet to have an acceptable set of guidelines. The issue of financial survival appeared to be more important than the treatment of women, a stark comment on our value system, she concluded.

The second issue involved reconsidering the temporary distribution of Superchannel Alberta in B.C. and the Yukon, followed by the take-over application for AIM, and finally the interim distribution of Superchannel Ontario in Atlantic Canada. This last was now, ironically, opposed by Star Channel's principals in the interesting twist of subterfuge which took place over the weekend prior to the hearing.

Fourteen groups and individuals appeared to speak to the original decision. Most were divided over the intent of the

CRTC's original pay decision. Although many felt that part of the problem of marketing pay was the perceived similarity between regional and national services, most agreed that the notion of competition was healthy for pay: The consumer deserved to have a choice, and if that choice could only be maintained through strong regionals linked against the national service, then let it be so. The government of Ontario, and the Competitions Branch of Consumer and Corporate Affairs Canada were the strongest advocates of this stance, while the Canadian Cable Television Association (CCTA) and Rogers Cable felt that differentiation might help in the overall marketing of pay. But neither were as adamant as First Choice that Superchannel alter its services to become a small scale, locally programmed, almost mini-pay network to complement the national one.

Superchannel argued that its mandate was to provide pay services through regionally based companies, and that the Commission had never directed it to be programmed in a narrow, or secondary, fashion to First Choice. In fact, it was demonstrated that the national service had imitated the regional to such a point, it was charged, that First Choice itself was blurring the lines and causing consumer confusion, not Superchannel.

Allard noted that the two Superchannel companies were operated separately, though they did use a common Edmonton uplink to save on origination costs. Although Superchannel did purchase full Canadian pay rights, this was done to accomplish an equal footing for certain projects with First Choice, and to permit Star Channel and AIM an easier access to product. Doug Holtby, president of Alberta Superchannel, noted that the Ontario and Alberta companies disagreed not a few times on acquisitions, and that independent producers turned down by one could always go to the other company.

It was First Choice's contention that the regionals should become add-on pay services which could be bought in combination with First Choice, for about half the price again of the national. Allard rejected this secondary position, arguing that competition was healthy if it took place on an equal footing. He hinted that the recent refinancing of their competitor had given First Choice an advantage, and it was now necessary to redress this by not only upholding the original decision as implemented, but by permitting the expansion as requested in other parts of the hearing. Since

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BC hearings

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no local owners could be found, Superchannel was offering to introduce its service - to uphold the CRTC's intended design of March 1982.

During his appearance, Finlay MacDonald said that he now accepted the idea of a regional mini-service, though he was not clear how it would come about. He suggested that he now had an indication that First Choice would help reconstitute his service, but would reveal no other details.

TVEC, the Quebec regional, insisted that it was a distinctive service for French-speaking Canadians, run and owned by French Canadians, and not a satellite of some other operator. President Jean Fortier also noted that his network could not survive much longer if the Commission insisted on permitting two services to compete for the small, primarily Quebec-based market, and that he felt the Quebec segment of the otherwise non-existent French national network, Premier Choix, should be ordered to shut itself down.

Myles Murchison, one of the unsuccessful applicants for the original B.C. license, suggested that a regionally identifiable pay service was possible, but did not see it in the

secondary role suggested by First Choice. Later in the proceedings, he noted that it was not appropriate for the Commission to condone the "trafficking" of licenses, nor to approve the transfer of AIM to Superchannel Alberta, since its management was not familiar with B.C. or its cultural community. He was joined in this belief by several others, including filmmaker Werner Allen, and the Vancouver East Cultural Centre. Others in the industry, however, argued that to delay a regional service any longer would deny local people their participation in the pay industry. Similarly, dozens of intervenors wanted to see an alternative to First Choice as soon as possible.

Clearly disturbed

The CRTC was clearly disturbed by the events that transpired in Vancouver. Commissioner Rosalie Gower's oft-quoted remarks about not seeing so much blood on the floor since she had left the operating theatres of Vernon was an understatement. Although courtesies were exchanged in hotel hallways and lobby, few could doubt the pay operators' battle to the death had begun in earnest.

At his first hearing, the CRTC's new chairman, André Bureau, acted in a very competent and diplomatic fashion, though he was quite rigid in

some of his rulings. Several breaks were called in order to caucus with his colleagues over specific matters of procedure. Following one of these, he ruled that neither the CCTA nor any Atlantic cable operators, could address the issue of Star Channel's replacement by Superchannel, since they had not applied to do so at the time of the original application. It did not seem to matter that the extraordinary Star Channel collapse had altered the impact of this part of the hearing considerably, nor that many Atlantic region cablecos were already distributing the Ontario Superchannel signal in lieu of Star's. Bureau stood firm on the matter.

No consensus

A consensus was not overwhelmingly evident from the Commissioners. A few hinted that they were never happy with the original decision, while others seemed to be unaware they were somehow responsible for the collapsing deck of cards of the pay television industry in Canada. It was clear from their questions that only one or two had subscribed to the services, so they had no way other than staff briefings and factum notes to grasp some of the intricate issues first-hand. Their questions reflected an ignorance of important details.

Most observers felt that the

Insight builds development fund

TORONTO - Independent production house Insight Productions of Toronto has established a fund to hire Canadian writers to develop television scripts.

Insight president John Brunton said his company, in association with industry partners which include a broadcaster, several entrepreneurs, and a pay operator, has set aside \$50-100,000 for the fund, and is looking to invest in situation comedies, dramatic series, variety and comedy specials, and TV miniseries.

Before Insight invests in a proposal, it first determines if there is substantial market interest for the property. Then it subsidizes a writer's efforts and sells the script at a premium, with money from the sale used to replenish the fund.

Explains Brunton: "If we commission a script for a dollar, we sell it for two dollars, put the dollar back into the fund, and split the other dollar with the parties involved."

One project currently in development is *Air That I Breathe*, a feature drama being scripted by Daphne Ballon. Insight also expects to sign several writers early in the new year on *Comedy Jam*, a TV series it has had in development for over a year.

"It's time we started investing money into writers in this industry," said Brunton, who added Insight had been largely unsuccessful in soliciting scripts from writers. Presently beside looking for writers, Brunton is looking for more investment partners to broaden the fund's base.

Commission would approve all the Allard applications. In so doing they would be upholding the original decision for competitive pay services, rather than regional services providing alternative programming to the national network. As the Commissioners often noted, there is little more to pay television than the showing of movies. To further fragment the revenues, as the Commission

has already done, means that little indigenous programming will get produced without Canadian content compromises being made. And as Canadians are not beating down doors to subscribe to pay television, no amount of rationalization will alter the ultimate test of the marketplace.

David Balcon •

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The Best of the Great Shorts

The 1983 Golden Sheaf Winners were:



FILM

Best Film of the Festival

Best Human Condition Category

"Chambers Track and Gestures" 56 minutes Atlantis Films Limited, Toronto

Best Human Dynamic Category

"Tom Magee Man of Iron" 30 minutes Mobius International, Toronto

Best Spontaneous Human Category

"L'Acteur et La Voisine" 26 minutes Parlimage Montreal

Best Direction Allan Kroeker

Best Script Allan Kroeker

Best Performance Cedric Smith

"In The Fall" 38 minutes CKND TV, Winnipeg

Best Editing Paul Fox

Certificate of Merit

"I Think Of You Often" 10 minutes Afterimage, Toronto

Best Sound Editing Niv Fichman

"Opus Two" 58 minutes Rhombus Media Inc., Toronto

Best Cinematography Roger Vernon

"Catherine Burgess: Sculptor in Steel" 10 minutes Mistaya Film Services Ltd., Banff

Nettie Kryski Canadian Heritage Award

"Wild Goose Jack" 57 minutes Clear Horizon Films Inc., Windsor

Special Jury Award

"Summer of the Loucheaux: Portrait of a Northern Indian Family" 28 minutes

Tamarack Films, Edmonton

Certificate of Merit

"Delceto, Vita Serena" 26 minutes Constantino Magnatta, Toronto

VIDEO

Best Video of the Festival

"Sandra and Her Kids" 27 minutes Tom Kelly CBC, Toronto

Best Human Condition Category

"Sandra and Her Kids" 27 minutes CBC, Toronto

No award was presented in the Human Dynamic or Spontaneous Human Categories
No award was presented for Best Direction

Best Editing Jean Lalleu

People's Choice Award

"Downhill Any Way You Can" 24 minutes The War Amputations of Canada, Ottawa

Best Script Jean Pierre L'Ecuyer

Best Sound Editing Robert Jacques

Best Children's

Yorkton Television Co. Ltd. Video Award

Special Jury Award

"Qu'est ce Qui M'Arrive?" 23 minutes Hospital Sainte Justine Montreal Jacques Viau

Best Videography Armin Matter

"Aspen Parkland" 29 minutes ACCFSS Alberta, Edmonton

Best Performance Adam Brooker

"Reunion" 28 minutes CKND TV, Winnipeg

Certificate of Merit

"Hunting Season" 30 minutes CKND TV Winnipeg

Yorkton, Saskatchewan, Canada

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