



Broadcasting Decision CRTC 2006-342

Ottawa, 9 August 2006

Ethnic Channels Group Limited Across Canada

Application 2004-1321-1
Public Hearing at Québec, Québec
20 March 2006

Hindi/Urdu/Punjabi Movie Channel – Category 2 specialty service

*In this decision, the Commission **approves** an application for a broadcasting licence to operate a new Category 2 specialty programming undertaking.*

The application

1. The Commission received an application by Ethnic Channels Group Limited (ECGL) for a broadcasting licence to operate a national, ethnic Category 2¹ specialty programming undertaking to be known as Hindi/Urdu/Punjabi Movie Channel.
2. The applicant proposed to offer a third-language, niche service that would be devoted to the Hindi-, Punjabi- and Urdu-speaking communities. The service would consist predominantly of movies. The applicant proposed that no more than 50% of the broadcast week would be devoted to programming in any one of the Hindi, Punjabi, or Urdu languages. No more than 10% of the programming would be in the English language.
3. All of the programming would be drawn from the following categories, as set out in Schedule 1 to the *Specialty Services Regulations, 1990*: 2(a) Analysis and interpretation; 2(b) Long-form documentary; 4 Religion; 5(b) Informal education/Recreation and leisure; 6(a) Professional sports; 6(b) Amateur sports; 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV; 7(e) Animated television programs and films; 7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy; 7(g) Other drama; 8(a) Music and dance other than music video programs or clips; 11 General entertainment and human interest; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.

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. The applicant also proposed that not less than 80% of all programming broadcast during the broadcast week would be drawn from categories 7(c) Specials, mini-series, made-for-TV feature films and 7(d) Theatrical feature films aired on TV.
5. Further, the applicant requested that it be authorized, by condition of licence, to broadcast up to six minutes per hour of local or regional advertising.

Interventions

6. The Commission received interventions in connection with this application by Multivan Broadcast Limited Partnership² (Multivan), the licensee of ethnic television programming undertaking CHNM-TV Vancouver, by NMTV inc. (NMTV), the licensee of the national ethnic Category 2 specialty programming undertaking known as NuevoMundo Television, and by Asian Television Network International Limited (Asian Television) which owns South Asian Television Canada Limited (SATV), the licensee of the national ethnic specialty television service ATN which serves the South Asian community in Canada. ATN offers programming in several South Asian languages.
7. While Multivan did not oppose the licensing of the proposed service, it did oppose the applicant's request for authority to broadcast local and regional advertising. Multivan contended that the Commission's policy to generally permit new ethnic Category 2 services to broadcast up to six minutes per hour of local advertising would generate additional competition that would impede CHNM-TV's ability to fulfill its regulatory obligations and prevent it from becoming profitable.
8. NMTV commented on the high volume of applications filed with the Commission for new third-language ethnic services and the process involved in the granting of these types of broadcasting licences.
9. Asian Television opposed the application, on the grounds that the proposed service would offer many programming categories which could result in the service being more of a general interest channel rather than a niche movie channel. The intervener also expressed concern that the service could become a major Hindi-language channel. The intervener claimed that in such a case, the service would be in direct competition with its own service ATN.

Applicant's replies

10. In response to Multivan, the applicant maintained that the intervener had not made a compelling case for the Commission to change its practice of generally permitting ethnic Category 2 services to broadcast up to six minutes per hour of local advertising. The applicant further contended that Multivan had not provided any evidence that approval of this application would have any impact on the intervener.

² Multivan Broadcast Corporation (the general partner) and 650504 B.C. Ltd., Douglas M. Holtby, Geoffrey Y.W. Lau, Robert H. Lee, Joseph Segal and RCG Forex Service Corp. (the limited partners), carrying on business as Multivan Broadcast Limited Partnership

11. The applicant did not respond to NMTV's comment.
12. In response to Asian Television's intervention, the applicant indicated that its proposed service would not become a general interest service due to ECGL's commitment that at least 80% of the programming would consist of programming drawn from categories 7(c) Specials, mini-series, made-for-TV feature films and 7(d) Theatrical feature films aired on TV. It further indicated that programming from the other categories would allow the service to be packaged in a more attractive manner for viewers. ECGL claims that the proposed level of movie-based programming is consistent with the level of such programming proposed by other niche services that have been approved. The applicant expressed the opinion that Asian Television should not claim that Asian Television's service Hindi Movie is not competitive with its own analog third-language service, ATN, while claiming that ECGL's movie-based service would be competitive.
13. With respect to the intervener's concern that the service might become a major Hindi-language channel, ECGL indicated that it has proposed conditions regarding the broadcast of programming in different languages and indicated that it would be prepared to accept a condition of licence requiring that no more than 40% of the third-language programming on the service be offered in each of Hindi and Punjabi, and the remainder in Urdu.

Commission's analysis and determinations

14. *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.
15. The Commission is satisfied that the application is in conformity with all applicable terms and conditions announced in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001 (Public Notice 2000-171-1). Furthermore, given that the service will offer more than 90% of its programming in a third language, the Commission is satisfied that the application falls under the definition of a third-language service, established in Public Notice 2005-104. Accordingly, the Commission **approves** the application by Ethnic Channels Group Limited for a broadcasting licence to operate the national, niche, third-language ethnic Category 2 specialty programming undertaking, Hindi/Urdu/Punjabi Movie Channel.
16. With respect to the request to broadcast up to six minutes of local or regional advertising, the Commission notes that, as set out in Public Notice 2005-104, the Commission generally permits new third-language services to broadcast up to six minutes per hour of local advertising unless an intervener makes a compelling case to the contrary.

17. In the present case, Multivan did not provide any evidence that a negative financial impact would result from permitting the proposed service to broadcast up to six minutes per hour of local or regional advertising.
18. The Commission therefore **approves** the applicant's request for authority to broadcast up to six minutes per hour of local and regional advertising. A **condition of licence** to that effect is set out in the appendix to this decision.
19. The Commission notes the applicant's commitment to limit the nature of the proposed service, and to accept a condition of licence requiring that not less than 80% of the programming broadcast on the service each week would consist of programming drawn from categories 7(c) Specials, mini-series, made-for-TV feature films and 7(d) Theatrical feature films aired on TV. Further, the Commission notes the applicant's indication that it would accept a condition of licence requiring that no more than 40% of all programming be in each of the Hindi and Punjabi languages, and that the remainder of its third-language programming be in the Urdu language. The Commission is of the view that these conditions would ensure that the proposed service would remain a niche movie service and accordingly, the buy-through requirement does not apply. The Commission is imposing these commitments as **conditions of licence**, as set out in the appendix to this decision.
20. The Commission notes that Hindi/Urdu/Punjabi Movie Channel will devote at least 90% of its program schedule to programming in the Hindi, Urdu and Punjabi languages. In accordance with Public Notice 2005-104, the remainder of the program schedule, i.e., up to 10% may be in one or both official languages. The Commission encourages the applicant to ensure that all such programming serves to promote Canada's linguistic duality.
21. The licence will expire 31 August 2012, and will be subject to the **conditions** set out in Public Notice 2000-171-1, as well as to the **conditions** set out in the appendix to this decision.

Issuance of the licence

22. 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; and

- 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 9 August 2009. 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.

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 2006-342

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, except for condition 4d) which will not apply, and condition 4a) which is replaced by the following:

Except as otherwise provided in subparagraphs b) and c), the licensee shall not broadcast more than twelve (12) minutes of advertising material during each clock hour, no more than six (6) minutes of which may consist of local or regional advertising.

2. The licensee shall provide a national, niche, third-language ethnic Category 2 specialty programming service devoted to the Hindi-, Punjabi- and Urdu-speaking communities. The service will consist predominantly of movies.
3. The programming shall 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:

- 2 (a) Analysis and interpretation
- (b) Long-form documentary
- 4 Religion
- 5 (b) Informal education/Recreation and leisure
- 6 (a) Professional sports
- (b) Amateur sports
- 7 (c) Specials, mini-series or made-for-TV feature films
- (d) Theatrical feature films aired on TV
- (e) Animated television programs and films
- (f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy
- (g) Other drama
- 8 (a) Music and dance other than music video programs or clips
- 11 General entertainment and human interest
- 12 Interstitials
- 13 Public service announcements
- 14 Infomercials, promotional and corporate videos

4. Not less than 90% of all programming broadcast during the broadcast week shall be in the following languages: Hindi, Urdu, and Punjabi.
5. Not more than 40% of the programming broadcast during the broadcast week shall be in the Hindi language and not more than 40% of the programming broadcast during the broadcast week shall be in the Punjabi language.
6. Not less than 80% of all programming broadcast during the broadcast week shall be drawn from program categories 7(c) Specials, mini-series, made-for-TV feature films and 7(d) Theatrical films aired on TV.
7. Where the licensee broadcasts religious programming as defined in the *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to balance and ethics in religious programming, as amended from time to time.

For the purposes of the conditions of this licence, including condition of licence no. 1, *broadcast day* means the period of up to 18 consecutive hours, beginning each day not earlier than six o'clock in the morning and ending not later than one o'clock in the morning of the following day, as selected by the licensee, or any other period approved by the Commission.