



Broadcasting Decision CRTC 2010-269

Route reference: 2009-803

Ottawa, 13 May 2010

FDR Media Group Inc., on behalf of a corporation to be incorporated Across Canada

Application 2009-1486-3, received 3 November 2009

Public Hearing in the National Capital Region

22 February 2010

Desi Hindi HD TV – Category 2 specialty service

*The Commission **denies** an application for a broadcasting licence to operate a new third-language ethnic Category 2 specialty programming undertaking.*

Introduction

1. FDR Media Group Inc. (FDR), on behalf of a corporation to be incorporated (the applicant), filed an application for a broadcasting licence to operate Desi Hindi HD TV, a national, niche third-language ethnic Category 2 specialty service. The programming of Desi Hindi HD TV would consist of long form documentaries, informal education, recreation and leisure, on-going dramatic series, on-going comedy series, specials, mini-series, made-for-TV feature films, theatrical feature films, animated television programs, music and dance, music video clips and general entertainment and human interest programs focusing on culture and entertainment, all of which would cater to the Canadians of South Asian ethnicity or who speak Hindi. FDR further indicated that the service would provide programming that is unique and family friendly.
2. The applicant will be owned by FDR, a corporation owned by FDR Consultants Group Inc. (FDR Consultants). FDR Consultants is equally owned and controlled by the three shareholders David Martin, Shubhankar Maitra and Fariba Rawhani, all Canadians as per the *Direction to the CRTC (Ineligibility of non-Canadians)*.
3. FDR stated that 100% of the programming broadcast during the broadcast week would be in the Hindi language. FDR further indicated that it would accept a condition of licence requiring that 100% of the programming broadcast in each year of the licence term be in high definition format. FDR requested permission to devote up to 6 of the 12 minutes of advertising broadcast during each clock hour to local advertising.

Interventions

4. The Commission received one intervention in opposition to this application from Asian Television Network International Limited (ATN) and one commenting on the application

from Shaw Communications Inc. (Shaw). These interventions, as well as the applicant's reply, are available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

5. ATN is the licensee of SATV, a national, analog, ethnic television service that has the South Asian communities of Canada as its target audience. In its intervention ATN opposed Desi Hindi HD TV's application as a niche Hindi-language service focusing on a specific programming genre – culture and entertainment – on the basis of the program categories proposed. While the applicant described the service as focusing on the genre of culture and entertainment, ATN was of the view that the categories from which the programming would be drawn go beyond the genre of culture and entertainment.
6. Shaw's comment applied to all applications for Category 2 services considered as part of this proceeding. Shaw did not oppose these applications but wished to state for the record its concern that any new Category 2 service must be licensed in a manner that is consistent with the streamlined, flexible framework introduced in Broadcasting Public Notice 2008-100. Specifically, Shaw indicated that the Commission should explicitly state that new Category 2 services cannot be granted mandatory distribution orders under section 9(1)(h) of the *Broadcasting Act* and cannot become Category 1 services with access rights.

FDR's reply

7. FDR noted that the Commission has described third-language niche services as services focusing on a specific programming genre or on a particular target group. In regard to the present application, FDR submitted that Desi Hindi HD TV's nature of service focuses on a family approach and accordingly, defined "family" as a target group. As such, FDR asserted that Desi Hindi HD TV would be a niche service. The applicant also asserted that the Commission has already approved third-language services identifying family as a target group of listeners.

Commission's analysis and determinations

8. After considering the positions of the applicant and the interveners, the Commission finds that the issue to be determined in its evaluation of this application relates to whether the proposed service would be directly competitive with existing Category 1 or analog pay or specialty services.

Would Desi Hindi HD TV be directly competitive with existing Category 1 or analog pay or specialty services?

9. In 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 new Category 1 service.

10. In Public Notice 2000-171, 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.
11. In Public Notice 2004-24, the Commission indicated that it may deny Category 2 applications in the following circumstances:
 - where there is a well-supported intervention demonstrating that a service would be directly competitive with an existing service, and where the applicant has not persuaded the Commission to the contrary;
 - where an applicant, even in the absence of such an intervention, has not satisfied the Commission that its proposed service would not be directly competitive with any existing service; or
 - where an applicant has not demonstrated that it meets the ownership requirements.
12. In the present case, the Commission notes that the proposed service would target a very broad demographic, including the same audience as that currently served by SATV. As a result, the Commission considers that FDR has failed to demonstrate that its proposed service would not be directly competitive with SATV, and notes that it did not propose limits on certain types or amounts of programming in order to mitigate the similarities.
13. Based on the foregoing, the Commission concludes that the proposed Category 2 service would compete directly with the existing analog specialty television service SATV. Accordingly, the Commission **denies** the application by FDR Media Group Inc., on behalf of a corporation to be incorporated, for a broadcasting licence to operate Desi Hindi HD TV.

Secretary General

Related documents

- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Revised procedures for processing applications for new digital Category 2 pay and specialty services*, Broadcasting Public Notice CRTC 2004-24, 8 April 2004

- *Introductory statement – Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000
- *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000

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>.