Canadian Radio-television and Telecommunications Commission
Conseil de la radiodiffusion et des télécommunications canadiennes

Broadcasting Decision CRTC 2013-88

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Route reference: 2012-475

Ottawa, 22 February 2013

Fairchild Television Ltd.
Across Canada

Application 2012-0768-9, received 21 June 2012
Public hearing in the National Capital Region
7 November 2012

Talentvision II – Specialty Category B service

*The Commission **approves** an application for a broadcasting licence to operate a new specialty Category B service.*

*The Commission also **approves** the applicant's request relating to the broadcast of local advertising.*

The application

1. Fairchild Television Ltd. (Fairchild) filed an application for a broadcasting licence to operate Talentvision II, a national, general interest third-language ethnic specialty Category B service that would offer programming from a variety of programming categories. At least 90% of the programming would be in the Mandarin language, and at least 80% of programming would be different from that broadcast by the Category A service Talentvision. The Commission did not receive any interventions in connection with this application.

2. Fairchild is controlled by Mr. Thomas Fung.

3. The applicant proposed to draw programming from the following program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time: 1, 2(*a*), 2(*b*), 3, 4, 5(*b*), 6(*a*), 6(*b*), 7(*a*), 7(*b*), 7(*c*), 7(*d*), 7(*e*), 7(*f*), 7(*g*), 8(*b*), 8(*c*), 9, 10, 11(*a*), 11(*b*), 12, 13 and 14.

4. Fairchild requested that it be authorized to devote up to 6 of the 12 minutes of advertising material permitted during each clock hour to local and regional advertising.[1]

[1] "Local advertising" is advertising that does not fall within the definition of national or regional advertising, i.e., advertising to persons who provide goods or services in more than one market and/or province.

Commission's analysis and decisions

5. In Broadcasting Public Notice 2005-104, the Commission implemented a revised, open-entry approach for considering applications proposing new third-language Category 2 (Category B) specialty services. Under this approach, the Commission no longer assesses the potential competitiveness of new, third-language ethnic specialty and pay Category B services with existing analog third-language ethnic specialty services. Instead, such applications are generally approved subject, in appropriate cases, to both a buy-through requirement[2] and the criteria specified in Broadcasting Public Notice 2005-104. This means that broadcasting distribution undertakings choosing to distribute a new third-language Category B service may only offer such a service to those who also subscribe to an existing ethnic Category A service operating in the same language.

6. The Commission is satisfied that the application complies with all applicable policies, terms and conditions, including those set out in Public Notice 2000-6, Broadcasting Public Notices 2005-104 and 2008-100, and Broadcasting Regulatory Policies 2010-786 and 2010-786-1. Furthermore, given that the service will offer no less than 90% of its programming during the broadcast week in the Mandarin language, the Commission is satisfied that the service falls under the definition of a third-language service set out in the *Broadcasting Distribution Regulations*.

7. Accordingly, the Commission **approves** the application by Fairchild Television Ltd. for a broadcasting licence to operate the national, general interest third-language ethnic specialty Category B service Talentvision II. The Commission also **approves** the applicant's request for authority to broadcast up to six minutes per hour of local advertising. The terms and **conditions of licence** are set out in the appendix to this decision.

8. The Commission notes that Talentvision II will devote at least 90% of its program schedule to programming in the Mandarin language. In accordance with Broadcasting Public Notice 2005-104, the remainder of the program schedule (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.

Reminder

9. The Commission reminds the applicant that distribution of this service is subject to the requirements set out in the *Broadcasting Distribution Regulations*.

Secretary General

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[2] As set out in section 27(4) of the *Broadcasting Distribution Regulations*, except as otherwise provided under a condition of its licence, a licensee that distributes a general interest third-language Category B service to subscribers shall also distribute an ethnic Category A service to them if one is available in the same principal language.

Related documents

- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011

- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-786, 25 October 2010

- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008

- *Revised approach for the consideration of broadcasting licence applications proposing new third-language ethnic Category 2 pay and specialty services*, Broadcasting Public Notice CRTC 2005-104, 23 November 2005

- *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000

**This decision is to be appended to the licence.*

Appendix to Broadcasting Decision CRTC 2013-88

Terms, conditions of licence, expectations and encouragements for the specialty Category B service Talentvision II

Terms

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 and has provided the Commission with a launch date for the service. The undertaking must be operational at the earliest possible date and in any event no later than 48 months from the date of this decision.

The licence will expire 31 August 2019.

Conditions of licence

1. The licensee shall adhere to the conditions set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011 except for condition (d), which will not apply, and condition 7a), which is replaced by the following:

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

   For the purposes of this condition of licence, "local advertising" is advertising that does not fall within the definitions of national and regional advertising, i.e., advertising to persons who provide goods or services in more than one market and/or province.

2. In regard to the nature of service:

   a) The licensee shall provide a national general interest third-language ethnic specialty Category B service devoted to programming from a variety of programming categories. At least 80% of programming must be different from that broadcast by the Category A service Talentvision.

   b) The programming shall be drawn exclusively from the following program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:

1 News
2 (*a*) Analysis and interpretation
(*b*) Long-form documentary
3 Reporting and actualities
4 Religion
5 (*b*) Informal education/Recreation and leisure
6 (*a*) Professional sports
(*b*) Amateur sports
7 Drama and comedy
(*a*) Ongoing dramatic series
(*b*) Ongoing comedy series (sitcoms)
(*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, improvisation, unscripted works, stand-up comedy
(*g*) Other drama
8 (*b*) Music video clips
(*c*) Music video programs
9 Variety
10 Game shows
11 (*a*) General entertainment and human interest
(*b*) Reality television
12 Interstitials
13 Public service announcements
14 Infomercials, promotional and corporate videos

c) The licensee shall devote not less than 90% of the programming broadcast during the broadcast week to programming in the Mandarin language.

d) The licensee shall devote no more than 10% of all programming during the broadcast week to programming in other Chinese dialects such as Cantonese, Shanghaiese and Fujianese, as well as English.

3. The service approved hereby is designated as a Category B service.

For the purposes of the conditions of this licence, "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 no 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.

Expectations

The standard expectations applicable to these licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.

Encouragements

The standard encouragements applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.

The Commission encourages the licensee to ensure that the portion of the service's program schedule that is broadcast in the English and/or French languages serves to promote Canada's linguistic duality.