



Broadcasting Decision CRTC 2014-219

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Route reference: 2013-536

Ottawa, 8 May 2014

Ethnic Channels Group Limited Across Canada

Application 2013-0571-4, received 4 April 2013
Public hearing in the National Capital Region
5 December 2013

Hindi Women's TV 2 – Specialty Category B service

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

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

Application

1. Ethnic Channels Group Limited (ECGL) filed an application for a broadcasting licence to operate Hindi Women's TV 2, a national, niche third-language ethnic specialty Category B service that would be devoted to information and entertainment programming of particular interest to women and targeting women in the Hindi-speaking community.
2. ECGL is controlled by Slava Levin.
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: 2(a), 2(b), 3, 4, 5(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 8(b), 8(c), 9, 10, 11(a), 11(b), 12, 13 and 14.
4. To ensure that the proposed service would not be directly competitive with existing Category A services, the applicant indicated that it would adhere to a condition of licence whereby during each broadcast week, no more than 10% of all programming broadcast would be drawn from each of program categories 7(f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy and 7(g) Other drama combined, as well as from 8(b) Music video clips and 8(c) Music video programs combined.
5. ECGL proposed to broadcast at least 90% of its programming in the Hindi language. It further requested that it be authorized to devote up to 6 of the 12 minutes of

advertising material permitted during each clock hour to local¹ and regional advertising.

6. The Commission received an intervention in opposition to the application from Asian Television Network (Asian Television), to which the applicant replied. The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.

Commission's analysis and decisions

7. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issue it must address is whether the proposed service would be a general interest service (offering programming from a broad spectrum of program genres and categories) or a niche service (focused on a specific programming genre or a particular target group).
8. In Broadcasting Public Notice 2005-104, the Commission adopted an open-entry approach to applications proposing new third-language ethnic Category 2 (now Category B) pay and specialty services. Under this approach, applications for third-language services are generally approved. However, general interest third-language Category B services operating predominantly in one of the principal languages of the existing ethnic specialty Category A services, namely Cantonese, Greek, Hindi, Italian, Mandarin or Spanish, are subject to a requirement to be distributed with the Category A services operating in that language. Third-language niche services, whether or not they operate in any of those six languages, will generally be approved.
9. In its intervention, Asian Television questioned ECGL's intentions since it is already authorized to operate such a specialty Category B service (Hindi Women's TV, now known as Zee TV Canada). Asian Television also submitted that the applicant provided little evidence that its proposed service would be launched as a niche programming service rather than a general interest service. It argued that certain niche programming services, such as news, sports, travel and music, are generally likely to offer programming from fewer categories than general interest services and that the orientation of the service can be made mostly by applying a limitation to specific program categories. However, Asian Television argued that a women's niche programming service could offer all of the existing program categories and that only the programs' content and orientation would be determining factors in establishing the orientation of the service. Therefore, Asian Television submitted that the nature of service should clearly specify that the service be devoted solely to programming of interest to and targeting women.

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

10. In its reply, ECGL rejected the assessment that Hindi Women's TV 2 is not a niche programming service, arguing that Asian Television, which had filed a complaint² with the Commission in 2013 regarding Zee TV Canada, is simply repeating the same arguments against Hindi Women's TV 2 that were made in its complaint. The applicant submitted that this application is based on a nature of service and on programming categories that allow the service to be properly defined as niche and that are appropriate for the programming to be offered. It added that it is modeled on the application for Zee TV Canada, which the Commission accepted as a niche service. According to ECGL, Hindi Women's TV 2 will fully comply with the nature of service and other programming requirements regarding niche services. ECGL also argued that the Commission has previously determined that women's services can be identified as niche programming services, such as W, Hindi Women's TV and Mehndi HD TV, and that the proposed service would occupy that niche. The applicant stated that its application is consistent with previous Commission decisions authorizing a women's channel in the Hindi language.
11. With respect to Asian Television's intervention, the Commission notes that the application is similar to the niche women's programming services Hindi Women's TV and Mehndi HD TV, which were approved in Broadcasting Decisions 2013-53 and 2010-270. It considers that ECGL has demonstrated that its service is a niche service and not a general interest service that would compete directly with Asian Television's ethnic specialty Category A service South Asian Television Network. The Commission is of the view that the proposed nature of service and limitations on programming are sufficient to ensure that Hindi Women's TV 2 remains a niche service.

Conclusion

12. 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 Notice 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 Hindi language, the Commission is satisfied that the service falls under the definition of a third-language service set out in the *Broadcasting Distribution Regulations*.
13. Accordingly, the Commission **approves** the application by Ethnic Channels Group Limited for a broadcasting licence to operate the national, niche third-language ethnic specialty Category B service Hindi Women's TV 2. The Commission also **approves** the applicant's request for authority to broadcast up to six minutes per hour of local and regional advertising. The terms and **conditions of licence** are set out in the appendix to this decision.

² The Commission's decision regarding this complaint is set out in Broadcasting Decision 2014-218.

14. The Commission notes that Hindi Women's TV 2 will devote at least 90% of its program schedule to programming in the Hindi 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

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

Secretary General

Related documents

- *Complaint by Asian Television Network International Limited against Ethnic Channels Group Limited regarding the programming of Zee TV Canada*, Broadcasting Decision CRTC 2014-218, 8 May 2014
- *Hindi Women's TV – Specialty Category B service*, Broadcasting Decision CRTC 2013-53, 12 February 2013
- *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
- *Mehndi HD TV – Category 2 specialty service*, Broadcasting Decision CRTC 2010-270, 13 May 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 2014-219

Terms, conditions of licence, expectations and encouragements for the specialty Category B service Hindi Women's TV 2

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 2020.

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 7d), 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 twelve (12) minutes of advertising material during each clock hour, no more than six (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 by 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, niche third-language ethnic specialty Category B service devoted to information and entertainment programming of particular interest to women and targeting women in the Hindi-speaking community.
 - (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:

- 2 (a) Analysis and interpretation
 - (b) Long-form documentary
 - 3 Reporting and actualities
 - 4 Religion
 - 5 (b) Informal education/Recreation and leisure
 - 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 (a) Music and dance other than music video programs or clips
 - (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 not devote more than 10% of the programming broadcast during the broadcast week to programs drawn from each of program categories 7(f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy and 7(g) Other drama combined, and from program categories 8(b) Music video clips and 8(c) Music video programs combined.
- (d) The licensee shall broadcast no less than 90% of all programming during the broadcast week in the Hindi language.

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

For the purposes of the conditions of this licence, “broadcast day” refers to the 24-hour period beginning each day at 6 a.m. or any other period approved by the Commission.

Expectations

The standard expectations 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.

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.