



Broadcasting Decision CRTC 2005-93

Ottawa, 4 March 2005

**Ravinder Singh Pannu, on behalf of a corporation to be incorporated
Across Canada**

*Application 2004-0401-2
Public Hearing in the National Capital Region
1 December 2004*

IN-MUSIC-TV – Category 2 specialty service

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

The application

1. The Commission received an application by Ravinder Singh Pannu, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a national ethnic Category 2¹ specialty programming undertaking to be known as IN-MUSIC-TV.
2. The applicant proposed to offer a music programming service that would be devoted to the Punjabi-, Hindi- and Urdu-speaking communities. All of the programming would be drawn from the following categories, as set out in Schedule 1 to the *Specialty Services Regulations, 1990* (the Regulations): 8a (Music and dance other than music video programs or clips), 8b (Music video clips), 8c (Music video programs), 9 (Variety), 11 (General entertainment and human interest) and 13 (Public service announcements).
3. At the 1 December 2004 public hearing, the Commission considered a total of six applications by Mr. Pannu for new Category 2 specialty programming undertakings. Mr. Pannu currently controls S.S.TV Inc., which is the licensee of SSTV, a Category 2 specialty service dedicated to programming that focuses on Punjabi religious teachings and religion as well as music, dance and video based on Punjabi culture, and news and information concerning East Indian countries and Punjabi communities in Canada.

The interventions

4. The Commission received a comment on this application by Rogers Cable Inc. (Rogers) and an opposing intervention by Shantichandra B. Shah, on behalf of Asian Television Network International Limited and its subsidiaries, including South Asian Television Canada Limited (SATV), the licensee of ATN, a national analog ethnic specialty television service that is targeted to Canada's South Asian communities.

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.

5. Rogers commented that the Commission should issue a moratorium on the licensing of any new ethnic Category 2 services until it has completed the review of its approach to assessing requests to add non-Canadian third-language television services to the Commission's lists of satellite services eligible for distribution on a digital basis².
6. Mr. Shah expressed concern that the proposed IN-MUSIC-TV service would eventually evolve into a Hindi-language entertainment service that would compete directly with ATN, contrary to the Commission's policy that Category 2 services not be directly competitive with analog specialty services.

The applicant's response

7. In response to Rogers' comment, the applicant submitted that applications for Canadian services should be given priority over those for non-Canadian third-language programming services.
8. In response to Mr. Shah's intervention, the applicant submitted that IN-MUSIC-TV would not be competitive with ATN. The applicant stated that its proposed service would not target all South Asian communities in Canada, but would be devoted exclusively to the Punjabi-, Hindi- and Urdu-speaking communities. Further, the proposed service would consist predominantly of music programming, while 98% of ATN's schedule is made up of programming other than music programming.
9. The applicant noted that SATV has been authorized to operate a Category 2 pay television service devoted predominantly to Hindi-language movies³, and a Category 2 specialty television service targeting the Punjabi-speaking community⁴. At the same time, the applicant pointed out that competition between Category 2 services is wholly consistent with the Commission's policy concerning such services.

The Commission's analysis and determination

10. With respect to Rogers' comment, the Commission notes that it has completed its review and set out its findings in *Improving the diversity of third-language television services – A revised approach to assessing requests to add non-Canadian third-language television services to lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2004-96, 16 December 2004.

² *Review of the approach to assessing requests to add non-Canadian third-language services to the lists of eligible satellite services for distribution on a digital basis – Call for comments*, Broadcasting Public Notice CRTC 2004-53, 15 July 2004.

³ *Hindi Movie Channel*, Decision CRTC 2000-683, 24 November 2000 and 14 December 2000.

⁴ *Punjabi Channel*, Decision CRTC 2000-686, 24 November 2000 and 14 December 2000.

11. In *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000 (Public Notice 2000-6), the Commission implemented a competitive, open-entry approach to licensing Category 2 services. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, and Public Notice CRTC 2000-171-1, 6 March 2001 – *Corrected Appendix 2*, the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an analog pay or specialty or existing Category 1 service, although not with an existing Category 2 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.
12. In the present case, the Commission is satisfied that the IN-MUSIC-TV's proposed nature of service is sufficiently specific so as to ensure that it will not be directly competitive with any analog pay or specialty or existing Category 1 service, including ATN. IN-MUSIC-TV will offer music programming targeted to the Punjabi-, Hindi- and Urdu-speaking communities. It will only broadcast programming drawn from categories 8a (Music and dance other than music video programs or clips), 8b (Music video clips), 8c (Music video programs), 9 (Variety), 11 (General entertainment and human interest) and 13 (Public service announcements), as set out in Schedule 1 to the Regulations. In comparison, ATN offers a more broadly-based service to Canada's South Asian communities, in a variety of languages.
13. With respect to Mr. Shah's concerns that that IN-MUSIC-TV might evolve into a service that would be directly competitive with ATN, the Commission is satisfied that the conditions of licence imposed on IN-MUSIC-TV defining its nature of service, as set out in the appendix to this decision, will ensure that the proposed service will not be able to change its programming to focus on Hindi-language entertainment programming. If the applicant wished to make any change in the languages of broadcast or the program categories from which IN-MUSIC-TV may draw programming, it would have to file another application with the Commission for an amendment to its conditions of licence.
14. Based on its examination of this application, the Commission is satisfied that it 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). Accordingly, the Commission **approves** the application by Ravinder Singh Pannu, on behalf of a corporation to be incorporated, for a broadcasting licence to operate the ethnic Category 2 specialty programming undertaking, IN-MUSIC-TV.
15. The licence will expire 31 August 2011, and will be subject to the conditions set out in Public Notice 2000-171-1, as well as to the **conditions of licence** set out in the appendix to this decision.

Issuance of the licence

16. A licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:

- an eligible Canadian corporation has been incorporated in accordance with the application in all material respects;
- 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 4 March 2008. 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 2005-93

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*, Public Notice CRTC 2000-171, 14 December 2000 and Public Notice CRTC 2000-171-1, 6 March 2001 – *Corrected Appendix 2*, as well as to the following conditions of licence.
2. The licensee shall provide a national ethnic Category 2 specialty programming undertaking devoted to music programming for the Punjabi-, Hindi- and Urdu-speaking communities.
3. The programming must 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:
 - 8 (a) Music and dance other than music video programs or clips
 - (b) Music video clips
 - (c) Music video programs
 - 9 Variety
 - 11 General entertainment and human interest
 - 13 Public service announcements
4. Not less than 35% of all programming broadcast during the broadcast week shall be in the Punjabi language.
5. Not more than 30% of all programming broadcast during the broadcast week shall be in the Hindi language.
6. Not more than 15% of all programming broadcast during the broadcast week shall be in the Urdu language.
7. Not more than 20% of all programming broadcast during the broadcast week shall be in the English language and shall be restricted to spoken-word programs. No English-language music shall be broadcast at any time.

For the purposes of the conditions of this licence, including condition of licence no. 1, *broadcast day* shall have the same meaning as that set out in the *Television Broadcasting Regulations, 1987*.