



## Broadcasting Decision CRTC 2006-122

Ottawa, 4 April 2006

### **Asian Television Network International Limited** Across Canada

*Application 2005-0733-7*

*Public Hearing in the National Capital Region*

*16 January 2006*

### **ATN – Cricket Channel II – Category 2 pay television service**

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

#### **The application**

1. The Commission received an application by Asian Television Network International Limited (ATN) for a broadcasting licence to operate a national, English-language Category 2<sup>1</sup> pay television programming undertaking to be known as ATN – Cricket Channel II.
2. The applicant proposed to offer a service that would provide coverage of cricket games from around the world as well as local cricket games. All of the programming would be drawn from the following categories, as set out in Schedule 1 of the *Pay Television Regulations*, 1990: 2 (a) Analysis and interpretation; 2(b) Long-form documentary; 3 Reporting and actualities; 6(a) Professional sports; 6(b) Amateur sports; and 13 Public service announcements.

#### **Intervention**

3. The Commission received an intervention by NB Spring and Manufacturing Ltd. (NB Spring) in opposition to this application. As a small broadcaster authorized to operate a regional, ethnic Category 2 specialty service in *Caribbean Circuit Television – Category 2 specialty service*, Broadcasting Decision CRTC 2005-102, 10 March 2005, NB Spring requested that the Commission seriously consider the impact of approving ATN's application. In NB Spring's view, ATN is monopolizing the market by applying for numerous Category 2 services.
4. ATN did not reply to the intervention.

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<sup>1</sup> 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.

## Commission's analysis and determination

5. With respect to the concerns raised by NB Spring, the Commission notes that, in *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000, it 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 Category 1 service.
6. 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). Accordingly, the Commission **approves** the application by Asian Television Network International Limited for a broadcasting licence to operate the national, English-language Category 2 pay television programming undertaking, ATN – Cricket Channel II.
7. 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

8. 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 4 April 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 2006-122

### 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.
2. The licensee shall provide a national, English-language Category 2 pay television programming service devoted to providing coverage of cricket games from around the world as well as local cricket games.
3. The programming shall be drawn exclusively from the following categories, as set out in Schedule I to the *Pay Television Regulations, 1990*, as amended from time to time:
  - 2 (a) Analysis and interpretation
  - (b) Long-form documentary
  - 3 Reporting and actualities
  - 6 (a) Professional sports
  - (b) Amateur sports
  - 13 Public service announcements
4. In each broadcast year or portion thereof, the licensee shall devote not less than 15% of the broadcast day, and not less than 15% of the evening broadcast period to the exhibition of Canadian programs.
5. In accordance with the Commission's position on Canadian programming expenditures as set out in *New Flexibility With Regard to Canadian Program Expenditures by Canadian Television Stations*, Public Notice CRTC 1992-28, 8 April 1992, in *The Reporting of Canadian Programming Expenditures*, Public Notice CRTC 1993-93, 22 June 1993, in *Additional clarification regarding the reporting of Canadian programming expenditures*, Public Notice CRTC 1993-174, 10 December 1993, and in *Incentives for English-language Canadian television drama*, Broadcasting Public Notice CRTC 2004-93, 29 November 2004, as may be amended from time to time:
  - (a) In each broadcast year of the licence term following the first year of operation, the licensee shall expend on the acquisition of and/or investment in Canadian programs a minimum of 20% of the subscription revenues derived from the operation of this service during the previous broadcast year.

- (b) In each broadcast year of the licence term following the first year of operation, excluding the final year, the licensee may expend an amount on Canadian programs that is up to ten percent (10%) less than the minimum required expenditure for that year calculated in accordance with this condition; in such case, the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.
- (c) In each broadcast year of the licence term following the first year of operation, where the licensee expends an amount on Canadian programs that is greater than the minimum required expenditure for that year calculated in accordance with this condition, the licensee may deduct:
  - (i) from the minimum required expenditure for the following year of the licence term, an amount not exceeding the amount of the previous year's over-expenditure; and
  - (ii) from the minimum required expenditure for any subsequent broadcast year of the licence term, an amount not exceeding the difference between the over-expenditure and any amount deducted under (i) above.
- (d) Notwithstanding paragraphs (b) and (c) above, during the licence term, the licensee shall expend on Canadian programs, at a minimum, the total of the minimum required expenditures calculated in accordance with this condition of licence.

For the purposes of the conditions of this licence, including condition of licence no.1, *broadcast day* refers to the 24-hour period beginning each day at 6 a.m., or any other period approved by the Commission.