



Broadcasting Decision CRTC 2006-472

Ottawa, 6 September 2006

Teletatino Network Inc., on behalf of itself or a corporation to be incorporated Across Canada

Application 2004-1511-8
Public Hearing in the National Capital Region
1 May 2006

Spanish Entertainment TV 2 – Category 2 specialty service

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

The application

1. The Commission received an application by Teletatino Network Inc., on behalf of itself or a corporation to be incorporated, (TLN) for a broadcasting licence to operate a national ethnic Category 2¹ specialty programming undertaking to be known as Spanish Entertainment TV 2.
2. The applicant proposed to offer a service that would be devoted to the Spanish-speaking community with a particular emphasis on programming of interest to male audiences. The programming would consist of general entertainment and culturally significant programming, including dramas, comedies, documentaries, movies, news, talk shows and sports. All of the programming would be drawn from the following categories, as set out in Schedule 1 to the *Specialty Services Regulations, 1990*: 1 News; 2(a) Analysis and interpretation; 2(b) Long-form documentary; 3 Reporting and actualities; 4 Religion; 5(b) Informal education/Recreation and leisure; 6(a) Professional sports; 6(b) Amateur sports; 7(a) Ongoing drama series; 7(b) Ongoing comedy series (sitcoms); 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV; 7(e) Animated television programs and films; 7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy; 7(g) Other drama; 8(a) Music and dance other than music video programs or clips; 8(b) Music video clips; 8(c) Music video programs; 9 Variety; 10 Game shows; 11 General entertainment and human interest; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.

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.

3. The applicant proposed to broadcast not less than 85% of its programming in the Spanish language and not more than 15% in either the English or French language.
4. The applicant also requested that it be authorized, by condition of licence, to broadcast up to six minutes per hour of local or regional advertising.

Interventions

5. The Commission received one intervention in support of this application. An intervention submitted jointly by TerraTerra Communications Inc. (TTC) and NMTV Inc., also known as Nuevo Mundo Television (Nuevo Mundo), licensee of a Spanish-language Category 2 service known as NMTV opposed the application, given the size of the market.
6. The Commission also received an intervention from CanWest MediaWorks Inc. (CanWest), opposing this application on the basis that it would be directly competitive with existing analog pay or specialty services or Category 1 services, including Prime TV, Mystery and Men TV. CanWest noted that if approved, the service would be able to broadcast up to 15% of its entire schedule in English, in any program genre.

Applicant's replies

7. TLN indicated that Nuevo Mundo and TTC did not provide any specific reasons for their opposition to this application. TLN further stated that the interveners may be concerned about potential competition between TLN's proposed service and NMTV. TLN argued that the Commission has repeatedly reiterated its policy that Category 2 specialty programming undertakings do not enjoy genre protection, and may face competition from other Category 2 programming services.
8. In reply to the concerns expressed by CanWest, TLN stated that, as an ethnic specialty service, all of Spanish Entertainment TV 2's programming would be directed to the Spanish-speaking community. TLN further stated that, with the bulk of its programming in Spanish, it would not be directly competitive with mainstream English- or French-language specialty or pay services.

Commission's analysis and determinations

9. In *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, the Commission designed a new open-entry approach for consideration of applications proposing new third-language ethnic Category 2 services. The Commission defined a third-language programming service as one that provides at least 90% of its programming in languages other than English or French.

10. In announcing its revised approach, the Commission indicated that applicants proposing new Category 2 services that would offer less than 90% of their programming in a third language would continue to be assessed under the case-by-case approach set out in *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000. In that framework, 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 Category 1 service.
11. The Commission finds that the current application is not directly competitive with any analog pay or specialty or existing Category 1 service. Consequently, the application does not raise any concerns with the Commission.
12. 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 Telelatino Network Inc., on behalf of itself or a corporation to be incorporated, for a broadcasting licence to operate the national, ethnic Category 2 specialty programming undertaking, Spanish Entertainment TV 2.
13. With respect to the request to broadcast up to six minutes of local or regional advertising, the Commission notes that the service would be devoted to the Spanish-speaking community, and that not less than 85% of all programming broadcast during the broadcast week would be in the Spanish language. As a result, the Commission is of the view that the service would not compete directly with existing analog or Category 1 services and that the addition of local or regional advertising on the proposed service would have limited impact on them.
14. The Commission therefore **approves** the applicant's request for authority to broadcast up to six minutes per hour of local and regional advertising. A **condition of licence** to that effect is set out in the appendix to this decision.
15. The Commission notes that Spanish Entertainment TV 2 will devote at least 85% of its program schedule to programming in the Spanish language with the remainder in English or French. The Commission encourages the applicant to ensure that all such programming serves to promote Canada's linguistic duality.
16. The licence will expire 31 August 2013, 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

17. 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 or, in the alternative, confirmation that the undertaking will be operated by Telelatino Network Inc.;
 - 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 6 September 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 2006-472

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, except for condition 4d) which will not apply, and condition 4a) 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 or regional advertising.

2. The licensee shall provide a national, ethnic Category 2 specialty programming service devoted to the Spanish-speaking community with a particular emphasis on programming of interest to male audiences.
3. The programming shall 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:

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 drama 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, improvisations, 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 General entertainment and human interest

12 Interstitials

13 Public service announcements

14 Infomercials, promotional and corporate videos

4. Not less than 85% of all programming broadcast during the broadcast week shall be in the Spanish language.
5. Where the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.

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.