



Broadcasting Decision CRTC 2006-498

Ottawa, 13 September 2006

**Brigitte H. Gallucci, on behalf of a corporation to be incorporated
Across Canada**

*Application 2005-0678-5
Public Hearing in the National Capital Region
1 May 2006*

Greek TV2 – 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 Brigitte H. Gallucci, 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 Greek TV2.
2. The applicant proposed to offer a third-language, general interest service that would be devoted to the Greek-speaking community. The proposed service would broadcast a broad range of programs such as news and news commentary, documentaries, religious programs, sports, drama, feature films, human interest programs, entertainment programs, cooking, music and dance. All of the programming broadcast in the broadcast week would be in the Greek language.
3. All of the programming would be drawn from the following categories 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(a) Formal education and pre-school; 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.

4. The applicant requested that it be authorized, by condition of licence, to broadcast up to six minutes per hour of local and regional advertising.

Intervention

5. The Commission received an intervention in opposition to this application by Odyssey Television Network Inc., the licensee of the national, ethnic specialty service known as Odyssey Television Network (Odyssey), and the parent company of 1494679 Ontario Inc., the licensee of the national, ethnic Category 2 specialty service known as Odyssey II. Both services are targeted primarily to Greek-speaking communities in Canada.
6. According to the intervener, the proposed Category 2 service would broadcast programming from the same programming categories as Odyssey and would therefore be directly competitive with Odyssey. The intervener also expressed concern that the licensing of the proposed service would make it more difficult for the intervener to obtain programming rights for Odyssey and for future services, such as the two Category 2 services for which it has already filed applications with the Commission.

Applicant's reply

7. In response, the applicant maintained that the proposed service would be complementary with Odyssey's service and be similar to Odyssey II's service. The applicant further submitted that the question of competitiveness has been answered by the Commission 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, (Public Notice 2005-104). In that public notice, the Commission adopted an open entry approach to the licensing of third-language ethnic services, subject to a buy-through requirement, where appropriate.
8. The applicant disputed the intervener's comment that approval of this application would lead to increased competition for programming rights for Greek-language programs by pointing out that other third-language services have successfully grown over time. In the applicant's view, the intervener's comment was motivated by a desire to maintain Odyssey's monopoly on Greek-language programming in Canada.

Commission's analysis and determinations

9. The Commission is satisfied with the applicant's response to the opposing intervention. The Commission also finds 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). Furthermore, given that the service will offer more than 90% of its programming in a third language, the Commission finds that the

application falls under the definition of a third-language service, established in Public Notice 2005-104. Accordingly, the Commission **approves** the application by Brigitte H. Gallucci, on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national, general interest third-language ethnic Category 2 specialty programming undertaking, Greek TV2.

10. With respect to the request to broadcast up to six minutes per hour of local or regional advertising, the Commission notes that, as set out in Public Notice 2005-104, the Commission generally permits new third language services to broadcast up to six minutes per hour of such advertising unless an intervener makes a compelling case to the contrary. In the present case, there were no interventions opposing the proposal to broadcast local and regional advertising. 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.
11. The Commission notes that Greek TV2 will devote all of its program schedule to programming in Greek. In accordance with Public Notice 2005-104, the Commission has imposed a **condition of licence** that requires Greek TV2 to devote not less than 90% of its program schedule to programming in Greek. The remainder of the program schedule, i.e., 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.
12. Distribution of this service is subject to the distribution and linkage rules that apply to third-language general interest Category 2 services that offer 40% or more of their program schedule in any of the Cantonese, Mandarin, Italian, Spanish, Greek, or Hindi languages, as set out in *Distribution and linkage requirements for Class 1 and 2 licensees*, Broadcasting Public Notice CRTC 2005-119, 14 December 2005 and *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Public Notice CRTC 2005-120, 14 December 2005, as amended from time to time. These rules require that such Category 2 services only be offered to customers who also subscribe to the analog service operating in the same language.
13. 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

14. 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 13 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 2006-498

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:

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, general interest third-language ethnic Category 2 specialty programming service devoted to the Greek-speaking community.
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 (a) Formal education and pre-school

(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 90% of all programming broadcast during the broadcast week shall be in the Greek 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.