



Broadcasting Decision CRTC 2006-505

Ottawa, 13 September 2006

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

*Application 2005-0907-8
Public Hearing in the National Capital Region
1 May 2006*

Pronto TV5 – Far East Television – 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 Pronto TV5 – Far East Television.
2. The applicant proposed to offer a third-language, general interest service that would be devoted to the Cantonese-, Mandarin-, Vietnamese-, Korean- and Filipino-speaking communities. The proposed service would broadcast a broad range of programs such as 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 Cantonese, Mandarin, Vietnamese, Korean and Filipino languages. No one language would exceed 20% of the broadcast week.
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;

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.

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.

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 connection with this application by Fairchild Television Ltd. (Fairchild). Fairchild is the licensee of a national, ethnic specialty service that is directed primarily to the Cantonese-speaking communities in Canada. It is also the licensee of Talentvision, a national, ethnic specialty service whose primary target audience is the Mandarin-speaking communities of Canada.
6. Fairchild noted that, 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) the Commission established a “buy-through” requirement, under which broadcasting distribution undertakings choosing to distribute a general interest, third-language ethnic specialty service offering 40% or more of its program schedule in any of the Cantonese, Mandarin, Italian, Spanish, Greek or Hindi languages, must distribute that service only to subscribers who also subscribe to the existing analog third-language ethnic specialty service operating in the same language. The intervener also noted that the proposed Pronto TV5 – Far East Television service would not be subject to the buy-through requirement under its current proposal. However, Fairchild submitted that the proposed service would be subject to the buy-through requirement if, in the future, it exceeded the 40% threshold established in Public Notice 2005-104 for Cantonese and/or Mandarin-language programming.

Applicant’s reply

7. In response, the applicant confirmed that, if the proposed Pronto TV5 – Far East Television service were to offer more than 40% of its program schedule in the Cantonese or Mandarin languages, it would be subject to the buy-through requirement established in Public Notice 2005-104.

Commission’s analysis and determinations

8. 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). Furthermore, given that the service will offer more than 90% of its programming in third languages, the Commission is satisfied 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, Pronto TV5 – Far East Television

9. 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 the effect is set out in the appendix to this decision.
10. The Commission notes that Pronto TV5 – Far East Television will devote all of its program schedule to programming in the following languages: Cantonese, Mandarin, Vietnamese, Korean and Filipino. In accordance with Public Notice 2005-104, the Commission has imposed a **condition of licence** that requires Pronto TV5 – Far East Television to devote not less than 90% of its program schedule to programming in those languages with no one language exceeding 20% of the broadcast week. 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.
11. 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.
12. With respect to the concerns raised by Fairchild, the Commission notes that, in Public Notice 2005-104, it stated that 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 would be subject to the distribution and linkage rules set out in *Distribution and linkage requirements for Class 1 and 2 licensees*, Broadcasting Public Notice CRTC 2005-45, 11 May 2005 and *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Public Notice CRTC 2005-46, 11 May 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. In the present case, the distribution and linkage rules do not apply to Pronto TV5 – Far East Television, given that it is subject to a condition of licence requiring that all the programming broadcast by the service be in Cantonese, Mandarin, Vietnamese, Korean or Filipino and that no one language exceed 20% of the broadcast week. Should the licensee wish to increase the amount of programming that it offers in either Cantonese or

Mandarin, it would have to file an application with the Commission for an amendment to Pronto TV5 – Far East Television’s conditions of licence. The Commission and interested parties would then assess whether the distribution and linkage rules should apply to Pronto TV5 – Far East Television.

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 2006-505

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 Cantonese-, Mandarin-, Vietnamese-, Korean- and Filipino-speaking communities.
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 following languages: Cantonese, Mandarin, Vietnamese, Korean and Filipino. No one language shall exceed 20% of the broadcast week.
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.