



Broadcasting Decision CRTC 2006-546

Ottawa, 21 September 2006

6217427 Canada Inc.
Across Canada

Application 2005-1589-3
Public Hearing at Edmonton, Alberta
19 June 2006

Chinese Headline News – 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 6217427 Canada Inc., for a broadcasting licence to operate a national, ethnic Category 2¹ specialty programming undertaking to be known as Chinese Headline News.
2. The applicant proposed to offer a third-language niche service that would be devoted to the news, mostly in the Mandarin language. The applicant proposed that up to 95% of all programming would be offered in Mandarin, up to 10% in Cantonese, and up to 10% in English. Not less than 90% of all programming broadcast during the broadcast week would be in the Mandarin and Cantonese languages. 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, and 13 Public service announcements.

Interventions

3. The Commission received one comment in relation to this application from Fairchild Television Ltd. (Fairchild). Fairchild is the licensee of Fairchild Television, a national ethnic specialty television service whose service 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.

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. 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 (BDUs) choosing to distribute a general interest, third-language ethnic specialty service operating in Cantonese, Mandarin, Italian, Spanish, Greek or Hindi, must distribute that service only to subscribers who also subscribe to the existing analog third-language ethnic specialty service operating in the same language.
5. Fairchild expressed the concern that, although the proposed programming categories are consistent with a niche news specialty service, there is nothing to prevent the applicant from becoming a general interest service in the future. Similarly, Fairchild stated that although the applicant proposed to offer its programming primarily in the Mandarin language, there is nothing to prevent the applicant from altering its language of programming. Fairchild indicated that “A shift from a niche service to a general interest service, combined with a change in the language mix may pose a significant negative impact to Fairchild Television and Talentvision.” As a result, Fairchild suggested that if this application were approved, the Commission should restrict the programming categories and the language of programming, both by condition of licence. If not, in Fairchild’s opinion, Chinese Headline News should be subject to the buy-through requirement.
6. The applicant did not reply to Fairchild’s intervention

Commission’s analysis and determinations

7. With respect to Fairchild’s comment, the Commission is satisfied that the description of the nature of the proposed service is sufficiently narrow to qualify as a niche service, and that, as a niche service, consistent with Public Notice 2005-104, the proposed service would not be subject to the buy-through requirement. In addition, the Commission is satisfied that the proposed nature of service definition, the program categories as well as the limits on the languages, all of which would be ensured by conditions of licence, are sufficient to prevent the proposed service from becoming directly competitive with Fairchild Television and Talentvision.
8. The applicant has indicated that it will be entering into programming supply agreements and licence trademark agreements with non-Canadian independent producers. The Commission reminds the applicant that it must comply at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998 (the Direction). Accordingly, the Commission requests that the applicant file with it for prior review, a copy of any programming supply agreement and/or licence trademark agreement that it enters into with a non-Canadian party, in order to ensure that the applicant complies at all times with the Direction.

9. 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 it falls under the definition of a third-language service, established in Public Notice 2005-104. Accordingly, the Commission **approves** the application by 6217427 Canada Inc., for a broadcasting licence to operate the national, niche, third-language ethnic Category 2 specialty programming undertaking, Chinese Headline News.
10. The Commission notes that Chinese Headline News will devote at least 90% of its program schedule to programming in the Mandarin and Cantonese languages. In accordance with Public Notice 2005-104, 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.

Issuance of the licence

12. 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 21 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 2006-546

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, niche, third-language ethnic Category 2 specialty programming service that will be devoted to news.
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
 - 13 Public service announcements
4. Not less than 90% of all programs broadcast during the broadcast week shall be in the Mandarin and Cantonese languages.
5. Not more than 10% of all programs broadcast during the broadcast week shall be in the Cantonese language.

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.