



## Broadcasting Decision CRTC 2006-552

Ottawa, 25 September 2006

**L S Movie Channel Limited**  
Across Canada

*Application 2006-0116-3*  
*Public Hearing at Edmonton, Alberta*  
*19 June 2006*

### **L S Times – 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 L S Movie Channel Limited (LS) for a broadcasting licence to operate a national, ethnic Category 2<sup>1</sup> specialty programming undertaking to be known as L S Times.
2. The applicant proposed to offer a third-language general interest service that would be devoted to the Asian community. It would consist of programs in Cantonese, Mandarin, Korean, Japanese, Vietnamese and other East Asian languages. The applicant proposed that not less than 70% of all programming broadcast during the broadcast week would be in the Cantonese language, and that the remainder would be in Mandarin, Japanese, Vietnamese and other East Asian 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; 3 Reporting and actualities; 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; 11 General entertainment and human interest; 12 Interstitials; 13 Public service announcements, and 14 Infomercials, promotional and corporate videos.
3. Further, the applicant requested that it be authorized, by condition of licence, to broadcast up to six minutes per hour of local or regional advertising.

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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.

## **Intervention**

4. The Commission received one intervention with respect 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.
5. Fairchild noted that L S recognized that it would be subject to *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 which 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 may do so only to customers who also subscribe to the analog service operating in the same language. Given that over 40% of the programming of the proposed service would be in Cantonese, L S recognized that BDUs choosing to distribute L S Times would do so only to subscribers who also subscribe to Fairchild Television.
6. Fairchild expressed the opinion that L S Times should be required, by condition of licence, to provide its programming in a minimum of four different Asian languages, of which not less than 70% would be in the Cantonese language. Fairchild was of the view that such a condition would ensure that the applicant fulfils its mandate to serve a variety of Asian-language communities with the remaining 30% of its programming. Moreover, it would also prevent the applicant from reducing the amount of Cantonese-language programming while increasing its Mandarin-language programming to 40% or more of its schedule.
7. In the alternative, Fairchild requested that the Commission impose the buy-through requirement, in which BDUs choosing to distribute L S Times should be allowed to do so only to subscribers who also subscribe to both Fairchild Television and Talentvision. Fairchild also urged the Commission to clarify details of the buy-through requirement.

## **Applicant's reply**

8. According to the applicant, Fairchild's suggestion that L S Times be subject to a condition of licence that it provide its programming in a minimum of four different Asian languages is unwarranted. L S noted that its application contemplates a Cantonese-language service, and reiterated its proposal to provide not less than 70% of all programming in that language. L S further expressed its opinion that Fairchild's intervention disregards the Commission's call for a more open-entry approach in its consideration of applications such as this one.

9. L S also opposed Fairchild's submission that L S Times should be subject to the buy-through requirement for both Fairchild Television and Talentvision, as only Cantonese and not Mandarin would exceed the 40% threshold for classification as a principal language, as stated in Public Notice 2005-104.

### **Commission's analysis and determinations**

10. With respect to the concerns raised by Fairchild in regards to the implementation of the buy-through requirement, the Commission notes that Public Notice 2005-104 stipulates that where 90% of a proposed service's programming schedule is in a language other than English and/or French, and where 40% or more of the programming schedule is in Cantonese, Mandarin, Italian, Spanish, Greek or Hindi, the Commission would require BDUs choosing to distribute the service to do so only to subscribers who also subscribe to the existing analog third-language ethnic specialty service operating in that same language.
11. In this case, the Commission notes that L S Times would devote not less than 70% of all programming during each broadcast week to programming in the Cantonese language.
12. Accordingly, the Commission notes that distribution of this service would be 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 2005-45, 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. Specifically, distributors that wish to offer L S Times may only do so to subscribers who also subscribe to Fairchild Television. Given that the licensee is not authorized to broadcast more than 30% in Mandarin, no similar buy-through applies in respect of Talentvision.
13. Based on its examination of this application, the Commission is further satisfied that it 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 L S Movie Channel Limited for a broadcasting licence to operate the national, general interest, third-language ethnic Category 2 specialty programming undertaking, L S Times.

14. 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 local advertising, unless an intervenor makes a compelling case to the contrary.
15. 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.
16. The Commission notes that L S Times will devote at least 90% of its program schedule to programming in Cantonese, Mandarin, Japanese, Vietnamese, and other East Asian 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.
17. 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**

18. 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 25 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 2006-552

### 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, general interest, third-language ethnic Category 2 specialty programming service targeted to the Asian 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

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

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 Cantonese, Mandarin, Japanese, Vietnamese and other East Asian languages.
5. Not less than 70% of all programming 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.