



Broadcasting Public Notice CRTC 2006-106

Ottawa, 21 August 2006

Addition of TV Asia to the lists of eligible satellite services for distribution on a digital basis

*The Commission **approves** a request to add TV Asia to the lists of eligible satellite services for distribution on a digital basis and amends the lists of eligible satellite services accordingly. The revised lists are available on the Commission's web site at www.crtc.gc.ca under "Industries at a Glance."*

Introduction

1. The Commission received a request dated 9 March 2006 from Rogers Cable Communications Inc. (Rogers) for the addition of TV Asia, a non-Canadian third-language service, to the lists of eligible satellite services for distribution on a digital basis (the digital lists). Rogers described the service as follows:

TV Asia is a 24-hour general interest service from the United States offering programming in Hindi, Gujarati, and other Indian and South Asian languages. Less than 10% of the schedule is in English. TV Asia offers a wide range of programming, including news, lifestyle/human interest, drama, movies, music/variety and religious programs.

2. The Commission subsequently issued *Call for comments on the proposed addition of TV Asia to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2006-53, 26 April 2006.

Positions of parties

3. The Commission received several comments in support of the addition of TV Asia to the digital lists.
4. Asian Television Network International Limited (ATN) also filed a comment in respect of this application. ATN is the parent corporation of South Asian Television Canada Limited, the licensee of South Asian Television (SATV). ATN argued that TV Asia, with the majority of its programming in Hindi, would be in direct competition with SATV. ATN submitted that the addition of TV Asia to the lists must therefore be subject to strict adherence to the "buy-though" requirements established pursuant to *Improving the diversity of third-language television services – A revised approach to assessing requests to add non-Canadian third-language television services to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2004-96, 16 December 2004 (Public Notice 2004-96).

5. ATN also requested that the addition of TV Asia to the lists, if approved by the Commission, be subject to the requirement that “there be no direct or indirect sourcing of Canadian advertising by TV Asia by way of solicitation or by other ways and means whatsoever resulting in a loss of advertising revenues to Canadian broadcasting services.”

Commission’s analysis and determinations

6. In Public Notice 2004-96, the Commission stated that, going forward, requests to add non-Canadian third-language general interest services to the digital lists would generally be approved, subject, as appropriate, to new distribution and linkage rules described in that Public Notice. The Commission also set out the information that Canadian sponsors are obliged to file before the Commission will consider the addition of non-Canadian third-language services to the digital lists.
7. The Commission has examined the material filed in support of the request to add TV Asia to the digital lists, and is satisfied that the service is a general interest third-language service, primarily in Hindi, Gujarati, and other Indian and South Asian languages, as described by its sponsor. Thus, the service is appropriately subject to the approach for such services set out in Public Notice 2004-96.
8. With regard to the comments of ATN, the Commission notes that, pursuant to the distribution and linkage rules put into place to implement the approach set out in Public Notice 2004-96, any non-Canadian general interest third-language service added to the digital lists after 16 December 2004 that offers at least 40% of its programming in the Hindi language, may only be offered by Class 1 and Class 2 licensees to subscribers that also subscribe to SATV (the “buy-through requirement”). The information filed by Rogers in support of its request indicates that about 75% of TV Asia’s programming is in Hindi. Accordingly, the buy-through requirement announced in Public Notice 2004-96 would apply with respect to SATV. The Commission further notes that there is no inverse requirement, i.e., no requirement that a customer of a broadcasting distribution undertaking subscribe to the non-Canadian service in order to subscribe to SATV.
9. With regard to ATN’s request that the addition of TV Asia to the digital lists be subject to explicit requirements with respect to Canadian advertising, the Commission considers such requirements to be unnecessary since, if it was called upon to consider whether or not a non-Canadian service was carrying on a broadcasting undertaking in whole or in part in Canada, one of the factors the Commission would take into account is whether the service was soliciting advertising in Canada. In this regard, the Commission notes that, pursuant to *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, non-Canadians are not eligible to hold broadcasting licences, which are required in order to carry on such undertakings.

10. In light of the above, the Commission **approves** the addition of TV Asia to the digital lists and amends the lists of eligible satellite services accordingly. The lists of eligible satellite services are available on the Commission's web site at www.crtc.gc.ca under "Industries at a Glance" and may be obtained in hard copy on request.
11. The Commission notes that the distribution of this service is subject to the distribution and linkage rules that apply to third-language general interest services added to the digital lists after 16 December 2004, as set out in *Distribution and Linkage requirements for Class 1 and Class 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.

Secretary General

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