



Broadcasting Public Notice CRTC 2006-149

Ottawa, 21 November 2006

Addition of Indus Music to the lists of eligible satellite services for distribution on a digital basis

*The Commission **approves** a request to add Indus Music 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 June 2006 from Rogers Cable Communications Inc. (Rogers) for the addition of Indus Music, 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:

Indus Music is a 24-hour niche music service based in Pakistan. The service broadcasts in the Urdu language and offers programming from the following categories: lifestyle/human interest/recreation and leisure and music. Approximately 90% of the service's programming schedule consists of programming that is within the music genre.

2. The Commission subsequently issued *Call for comments on the proposed addition of Indus Music to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2006-94, 28 July 2006.

Positions of parties

3. The Commission received a comment in opposition to Rogers' request. This individual expressed the view that services distributed in Canada should have a Canadian flavour or content, and considered that the addition of this service would serve little purpose other than to bring about higher rates for the services provided by distributors.
4. Rogers did not file a reply to this comment.

Commission's analysis and determinations

5. The Commission's approach to requests for the addition of non-Canadian services to the digital lists was set out initially in *Call for proposals to amend the lists of eligible satellite services through the inclusion of additional non-Canadian services eligible for distribution on a digital basis only*, Public Notice CRTC 2000-173, 14 December 2000. In that public notice, the Commission indicated that it would assess such requests in the

context of its general policy which, among other things, precludes the addition of a non-Canadian satellite service that can be considered either totally or partially competitive with Canadian specialty or pay television services. In applying this policy, the Commission stated that it would take into account all specialty and pay television programming services whose licence applications had been approved by the Commission, including all of the launched and unlaunched Category 1 and Category 2 specialty and pay television services.

6. In *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), the Commission set out its revised approach to the assessment of requests to add non-Canadian third-language television services to the digital lists. In that public notice, the Commission also set out specific information that Canadian sponsors must file in support of their requests.
7. 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 requirements. In the case of non-Canadian third-language services that provide narrowly targeted or “niche” programming, the Commission stated that it would continue to apply a case-by-case assessment to determine whether the service is partially or totally competitive with Canadian pay and specialty services.
8. The Commission also stated in Public Notice 2004-96 that, in applying the competitiveness test to non-Canadian, third-language niche services, it would not take into consideration any unlaunched ethnic Category 2 service, unless the prospective operator of such a service presented compelling evidence that the launch of its service was imminent. The Commission added that such evidence could include distribution agreements or ongoing negotiations, programming contracts or negotiations with non-Canadian program suppliers, and licence fees paid to Canadian content suppliers.
9. Finally, in Public Notice 2004-96, the Commission stated that, in assessing niche services, there may be cases where, rather than denying authorization, it might be prepared to consider adopting distribution requirements similar to those adopted for general interest third-language services.
10. The Commission has examined the material filed by Rogers in support of the request to add Indus Music to the digital lists, and is satisfied that it is a niche service in the Urdu language, as described by Rogers. As such, the service is appropriately subject to the approach for niche, non-Canadian third-language services set out in Public Notice 2004-96.

11. The Commission is satisfied that there are no launched Canadian pay or specialty services with which Indus Music would compete. Further, the Commission received no submissions from unlaunched Category 2 services providing evidence that they would be launching in the near future and arguing that Indus Music would be competitive with them.
12. As to the concerns expressed by the individual who opposed the addition of Indus Music to the digital lists, the Commission remains of the view that the approach set out in Public Notice 2004-96 represents an appropriate balancing of various objectives of the *Broadcasting Act*, including those related to encouraging the development of Canadian expression, reflecting the multicultural and multiracial nature of Canadian society, and ensuring that programming is varied and comprehensive and includes programming from international sources. The Commission also notes that Rogers has requested that the service be authorized for digital distribution only. For this and other reasons, the Commission does not consider that authorization of this service would put upward pressure on overall rates charged by distributors.
13. In light of the above, the Commission **approves** the addition of Indus Music 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.

Secretary General

This document 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>