



Broadcasting Public Notice CRTC 2006-8

Ottawa, 20 January 2006

Addition of three Spanish-language services to the lists of eligible satellite services for distribution on a digital basis

*The Commission **approves** a request to add Azteca 13 International, TV Chile and TVE Internacional to the lists of eligible satellite services for distribution on a digital basis. Revised lists including those services are set out as an appendix to Revised lists of eligible satellite services, Broadcasting Public Notice CRTC 2006-9, issued today. Those lists supersede the lists appended to Revised lists of eligible satellite services, Broadcasting Public Notice CRTC 2005-128, 22 December 2005.*

Introduction

1. The Commission received a request dated 18 March 2005 from Quebecor Media Inc. (Quebecor) to add three non-Canadian services to the lists of eligible satellite services for distribution on a digital basis (the digital lists). Quebecor described the services as follows:
 - **Azteca 13 International:** a 24-hour 7-day per week Spanish-language general interest programming service originating from Mexico offering a variety of programming, including drama, movies, sports, music, variety, news and religious. The service is not accompanied by English- or French-language subtitles or secondary audio programming.
 - **TV Chile:** a 24-hour 7-day per week Spanish-language general interest programming service originating from Chile offering a variety of programming, including drama, movies, sports, music, variety, news and religious. The service is not accompanied by English- or French-language subtitles or secondary audio programming.
 - **TVE Internacional:** a 24-hour 7-day per week Spanish-language general interest programming service originating from Spain offering a variety of programming, including movies, sports, music, variety, news, religious, children's programming and comedy. The service is not accompanied by English- or French-language subtitles or secondary audio programming.
2. The Commission subsequently issued *Call for comments on a request to add Azteca 13 International, TV Chile and TVE Internacional to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2005-72, 25 July 2005.

Positions of parties

3. The Commission received over 100 comments, as well as numerous form letters, in support of Quebecor's request to add the three above-noted Spanish-language services to the digital lists. The Commission also received 14 comments specifically in support of TV Chile, including one from the Chilean Embassy. Three comments were filed specifically in support of TVE Internacional, including one from the Spanish Embassy, and 13 individuals filed comments specifically in support of Azteca 13.
4. Three parties expressed concerns relating to the addition of the three above-noted services and other Spanish-language services to the digital lists. While applauding the sponsor's interest in providing programming, albeit non-Canadian, to the Hispanic community of Canada, Hola! Canadian Hispanic TV Network (Hola!) and two individuals pointed out that there is a large pool of writers, directors, producers, artists and technicians that are capable of producing Canadian content in Spanish and are eager to share their work and their vision with Canadian society and the rest of the world.
5. These parties submitted that it is very difficult for Canadian Hispanic services to compete with non-Canadian Hispanic services, unless broadcasting distribution undertakings (BDUs) offer both the Canadian and non-Canadian services in a bundle. In their view, if the Commission is to authorize the addition of these three Spanish-language services and other non-Canadian Hispanic services to the digital lists, it must also take steps to ensure that the programming and financial viability of the licensed Canadian Hispanic services are maintained and that original Canadian programming is supported and encouraged. To achieve this balance, the parties proposed that the Commission require that BDUs bundle the non-Canadian services with the Canadian services in interesting and affordable packages. They also recommended that BDUs be required to contribute a percentage of their revenues to a production fund for the production and development of Canadian Hispanic content.
6. The partners of Bell ExpressVu Limited Partnership (ExpressVu),¹ generally supported the addition of the proposed services to the digital lists. However, to ensure that the services added to the digital lists are made available to all BDUs on a fair and equitable basis, ExpressVu proposed that the following condition be added to the requirements that all services placed on the digital lists must satisfy:

Non-Canadian programming services, to maintain inclusion on or be added to the lists of eligible satellite services, must provide access to their respective services to all broadcasting distribution undertakings as soon as practicable and on comparable terms and conditions.

¹ Bell ExpressVu Inc. (the general partner), and BCE Inc. and 4119649 Canada Inc. (partners in BCE Holdings G.P., a general partnership that is the limited partner), carrying on business as Bell ExpressVu Limited Partnership

Sponsor's reply

7. In its reply, Quebecor noted that it would like to add more Canadian third-language channels to its line-up of non-Canadian third-language channels so that it could offer new Canadians the best possible package of programming. Quebecor also noted that, in compliance with the approach set out 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), its package of Hispanic programming includes Teletatino, and this package is offered at an affordable price. Quebecor stated that, although subscribership to these services is still small, the number of subscribers has grown, demonstrating the interest in these services.
8. Quebecor submitted that, while it is sympathetic to the idea of co-productions between Canadian and non-Canadian third-language services, it cannot interfere in matters of content concerning the channels it offers, given its status as a BDU.

Commission's analysis and determination

9. In 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, as well as specific information that Canadian sponsors must file in support of their requests. In Public Notice 2004-96, the Commission stated that, going forward, requests to add non-Canadian, general interest, third-language services to the digital lists would generally be approved, subject, as appropriate, to new distribution and linkage requirements.²
10. The Commission has examined the material filed in support of Quebecor's request to add the three Spanish-language services noted above to the digital lists, and is satisfied that these services are general interest, third-language services in the Spanish language, as described by Quebecor. Thus, it is appropriately subject to the approach set out in Public Notice 2004-96.
11. With respect to the concerns raised regarding the difficulties faced by Canadian Hispanic services, the Commission notes that the measures adopted in Public Notice 2004-96 were intended to provide third-language, general interest Category 2 services with an opportunity to establish a place in the Canadian broadcasting system, while at the same time improving service to underserved third-language communities in Canada by providing for greater access to non-Canadian services. The Commission sees no reason to depart from that approach in the case of the three above-noted Spanish-language services.

² The current requirements are 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.

12. The Commission also notes in this regard 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, it introduced measures to facilitate the licensing of new Canadian third-language services, and thus increase the availability of Canadian third-language programming to Canadian ethnic communities.
13. With regard to ExpressVu's suggestion that the addition of services to the digital lists be made subject to the condition that they be available to all BDUs on a fair and equitable basis, the Commission notes that ExpressVu did not present any evidence to raise concerns that any of the above-noted Spanish-language services intend to make themselves available only to certain distributors or to provide significantly better terms to certain distributors. The Commission would, as a rule, expect non-Canadian services to make themselves available to BDUs on generally comparable terms.
14. In light of the above, consistent with the approach set out in Public Notice 2004-96, the Commission **approves** the addition of Azteca 13 International, TV Chile, and TVE Internacional to the digital lists. These three Spanish-language services have therefore been added to the lists attached *Revised lists of eligible satellite services*, Broadcasting Public Notice CRTC 2006-9, issued today. The Commission notes that the distribution of these services 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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