



Broadcasting Decision CRTC 2007-383

Ottawa, 18 October 2007

Soundview Entertainment Inc.
Across Canada

Application 2007-0412-3, received 13 March 2007
Public Hearing in the National Capital Region
27 August 2007

Sahara Filmy – Category 2 specialty service

*The Commission **approves** an application for a broadcasting licence to operate a new Category 2 specialty programming undertaking.*

Introduction

1. Soundview Entertainment Inc. (Soundview) filed an application for a broadcasting licence to operate Sahara Filmy, a national, third-language ethnic Category 2¹ specialty service that would offer programming devoted predominately to Hindi movies. Soundview proposed that 100% of the programming broadcast during the broadcast week would be in the Hindi language and requested that it be authorized to broadcast, of the 12 minutes of advertising material permitted during each clock hour, up to six minutes of local advertising.
2. The Commission has implemented a competitive, open-entry approach to licensing Category 2 services. While the Commission does not consider the impact that a Category 2 service might have on an existing Category 2 service, it does seek to ensure that Category 2 services do not compete directly with any existing Category 1 or analog pay or specialty television service. The Commission examines each application in detail, taking into consideration the proposed nature of service and the unique circumstances of the genre in question. Where appropriate, in setting conditions of licence, the Commission prevents or limits the broadcast of specific types of programming to ensure that the service is not nor will become directly competitive with any existing Category 1 or analog pay or specialty television service.
3. The Commission received an intervention in opposition to this application from Asian Television Network International Limited (ATN). ATN is a licensed television broadcaster that owns and operates specialty television channels providing television programming in several South Asian languages across Canada.

¹ The Category 2 services are defined in Public Notice 2000-171.

Commission's analysis and determinations

4. After considering the positions of the applicant and the intervener, the Commission finds that the issues to be determined in its evaluation of this application relate to whether the proposed service would be directly competitive with existing Category 1 or analog pay or specialty services, and to whether the proposed service would be Canadian owned and controlled.

Would Sahara Filmy be directly competitive with existing Category 1 or analog pay or specialty services?

5. Soundview noted in its reply to the intervention that ATN alluded to a specialty channel with which the proposed service would be in competition, and that the only service to which this would apply would be ATN's South Asian Television Network (SATV), a national, ethnic specialty television service. The applicant stated that Sahara Filmy would not be directly competitive with SATV, and indicated that it would accept the following two conditions of licence so as to further delineate the proposed service and ensure that it would not be competitive with SATV:
 - The licensee shall provide a national, niche, third-language ethnic Category 2 specialty programming service devoted to the Hindi-speaking community. The programming schedule shall only consist of feature films, made-for-TV movies, actor interviews, documentaries and similar movie-related programming.
 - 100% of the programming broadcast during the broadcast week shall be in the Hindi language.
6. The Commission is satisfied with the applicant's reply to this aspect of the intervention and considers that the conditions of licence proposed by Soundview for Sahara Filmy are sufficient to distinguish it from ATN's SATV service. In regard to the applicant's proposed condition of licence relating to the percentage of Hindi-language programming to be broadcast, the Commission notes that, as set out in Broadcasting Public Notice 2005-104, an applicant proposing a new third-language ethnic Category 2 service must commit to devote at least 90% of the program schedule of the service to programming in languages other than English or French. The remainder of the programming schedule, i.e., up to 10% of a proposed ethnic Category 2 service, may be in one or both official languages. The Commission further encourages applicants to ensure that all such programming serves to promote Canada's linguistic duality.

Would Sahara Filmy be Canadian owned and controlled?

7. ATN also argued that the applicant should have been identified as Sahara One Media & Entertainment Limited, an entertainment conglomerate in India, since it currently operates two television channels in India, Sahara One and Sahara Filmy.² ATN further argued that, as a consequence, the present application should have been for the addition of Sahara Filmy as a foreign service to the *List of Eligible Satellite Services* (the Lists) and not for a broadcasting licence to operate a new Canadian Category 2 specialty service.
8. In reply to the intervention, Soundview stated that ATN appeared to have confused the regulatory regimes relating to the Lists and to Category 2 specialty services, and therefore that this aspect of the intervention should be dismissed by the Commission.
9. The Commission has reviewed the application and considers that ATN has not substantiated its claims that the proposed service, if approved, would not be Canadian owned and controlled.

Conclusion

10. The Commission is satisfied with the applicant's reply to the intervention and that the application is in conformity with all applicable terms and conditions announced in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Soundview Entertainment Inc. for a broadcasting licence to operate the national, third-language ethnic Category 2 specialty programming undertaking Sahara Filmy.
11. As set out in Broadcasting Public Notice 2005-104, the Commission generally permits new ethnic specialty services to broadcast up to six minutes per hour of local advertising unless an intervener makes a compelling case to the contrary. In the present case, there were no interventions opposing the proposal to broadcast local advertising. The Commission therefore **approves** the applicant's request for authority to broadcast up to six minutes per hour of local advertising.
12. The terms and **conditions of licence**, including a condition of licence authorizing the broadcast of local advertising, are set out in the appendix to this decision.

Secretary General

Related documents

- *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

² The Commission notes that on the Web site for Sahara One Media & Entertainment Limited, the name of the second of these two services is not "Sahara Filmy" but "Filmy."

- *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001
- *Introductory statement – Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000
- *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993

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 2007-383

Terms and conditions of licence for the Category 2 specialty programming undertaking Sahara Filmy

Terms

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 18 October 2010. 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.

The licence will expire 31 August 2014.

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 2000, except for condition 4d) which will not apply, and condition 4a) which is replaced by:

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 advertising.

2. The licensee shall provide a national, third-language ethnic Category 2 specialty service devoted to the Hindi-speaking community. The programming schedule shall only consist of feature films, made-for-TV movies, actor interviews, documentaries and similar movie-related programming.
3. The programming shall be drawn exclusively from the following categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:

4 Religion

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

9 Variety

12 Interstitials

13 Public service announcements

14 Infomercials, promotional and corporate videos

4. The licensee shall broadcast not less than 90% of all programming during the broadcast week in the Hindi language.
5. In order to ensure that the licensee complies 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 licensee shall file, for the Commission's prior review, a copy of any programming supply agreement and/or licence trademark agreement it intends to enter into with a non-Canadian party.
6. Where the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.

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.