



Broadcasting Decision CRTC 2007-42

Ottawa, 31 January 2007

Greek National Television Network (Canada) Inc. Across Canada

*Application 2006-0102-2
Public Hearing in the National Capital Region
14 November 2006*

Odyssey Television Network (OTN3) – 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 Greek National Television Network (Canada) Inc. (GNTN) for a broadcasting licence to operate a national ethnic Category 2¹ specialty programming undertaking to be known as Odyssey Television Network (OTN3).
2. The applicant proposed to offer a third-language, general interest service that would be devoted to the Greek-speaking community. The applicant proposed that not less than 90% of all programming broadcast during the broadcast week would be in the Greek language.
3. All of the programming would be drawn from the following categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*: 1 News; 2(a) Analysis and interpretation; 2(b) Long-form documentary; 3 Reporting and actualities; 4 Religion; 5(b) Informal education/Recreation and leisure; 6(a) Professional 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; 10 Game shows; 11 General entertainment and human interest; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.

¹ 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.

4. The applicant also requested that it be authorized, by condition of licence, to broadcast up to six minutes per hour of local advertising.

Interventions

5. The Commission received one intervention in opposition to this application by Canadian Hellenic Cable Radio Ltd. (CHCR), licensee of CKDG-FM 105.1 Montréal.
6. CHCR submitted that the current situation regarding the Greek-language advertising market in Montréal does not allow for further competition for the limited advertising revenues available from within this market. The intervener argued that CKDG-FM, as a recently launched ethnic radio station that is dependent on the revenues from local advertisers wishing to reach the Greek-speaking residents of Montréal, needs the necessary “breathing space” to adjust and find its proper equilibrium. CHCR stated that “now is certainly not the time for the Commission to allow the [applicant’s] proposed new Greek-language Odyssey services² to have access to these local revenues on top of the national advertising and subscription revenues to which they would already be entitled.” CHCR also noted that allowing GNTN to access the local advertising market in the Montréal area would jeopardize CKDG-FM’s own ability to make a contribution to the realization of the objectives of Canada’s national broadcasting policy and to serve its various ethnic-language audiences.

Applicant’s reply

7. In reply to CHCR, GNTN noted that Odyssey Television Network’s (OTN’s) two current Greek-language channels are carried Canada-wide and are available on Videotron Ltd.’s system in Montréal. For its part, OTN stated that its subscriber base for both services is so small that it finds it very difficult to attract any meaningful advertisers.
8. Regarding the applicant’s request to be authorized to broadcast up to six minutes per hour of local advertising, GNTN indicated that CHCR failed to provide a compelling case that would cause the Commission to ignore its policy and deny the applicant the ability to broadcast six minutes per hour of local advertising on its proposed new services. Specifically, GNTN argued that CHCR failed to demonstrate any direct impact on its local advertising revenues if the proposed new services were licensed. GNTN also noted that OTN’s yearly revenue from the Montréal market, which is about \$30,000, has not increased in several years and that this amount is not likely to grow in future years since OTN’s subscriber base needs to increase substantially in order to attract new television advertisers.

² At the 14 November 2006 Public Hearing, GNTN also applied for a broadcasting licence to operate a national, general interest, third-language, ethnic Category 2 specialty programming undertaking to be known as Odyssey Television Network (OTN4).

Commission's analysis and determinations

9. The Commission is satisfied that the application 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 a third-language, the Commission is satisfied that the application falls under the definition of a third-language service, established 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 (Public Notice 2005-104). Accordingly, the Commission **approves** the application by Greek National Television Network (Canada) Inc. for a broadcasting licence to operate the national, general interest, third-language, ethnic Category 2 specialty programming undertaking, Odyssey Television Network (OTN3).
10. With respect to the request to broadcast up to six minutes per hour of local 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 intervener makes a compelling case to the contrary. Concerning the intervention by CHCR, the Commission notes the applicant's estimate that OTN receives approximately \$30,000 in revenues from the Montréal market and that this amount has not increased in several years. The Commission also notes that OTN's Category 2 specialty service initially approved and launched as Odyssey II³ has not attracted any advertising revenue. As a result, the Commission is not convinced that approval of the current application would have an undue negative impact on advertising in the Montréal market. The Commission therefore **approves** the applicant's request for authority to broadcast up to six minutes per hour of local advertising. A **condition of licence** to that effect is set out in the appendix to this decision.
11. The Commission notes that GNTN proposed to devote at least 90% of the program schedule of Odyssey Television Network (OTN3) to programming in Greek. In accordance with Public Notice 2005-104, the Commission has imposed a **condition of licence**, as set out in the appendix to this decision, that requires GNTN to devote not less than 90% of the program schedule of Odyssey Television Network (OTN3) to programming in Greek. 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.
12. Distribution of this service is 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 2006-135, 20 October 2006, and *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting

³ Odyssey II was rebranded ERT sat Canada in 2006, and is now referred to as ERT World Canada.

Public Notice CRTC 2006-134, 20 October 2006, as amended from time to time. These rules require that such Category 2 services only be offered to customers who also subscribe to the analog service operating in the same language.

13. The Commission reminds the applicant that if it wishes to enter at any given time into an agreement with non-Canadian independent producers regarding the supply of programming or the use of a licence trademark, it must comply 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 Direction). Accordingly, the Commission has imposed a **condition of licence**, as set out in the appendix to this decision, that requires the licensee to file, for the Commission's review, a copy of any programming supply agreement or licence trademark agreement it intends to enter into with a non-Canadian party, in order to ensure that the licensee complies at all times with the Direction.
14. 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

15. 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 31 January 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.

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 2007-42

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:

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, general interest, third-language, ethnic Category 2 specialty programming service devoted to the Greek-speaking community.
3. The programming shall be drawn exclusively from the following categories, as set out in item 6 of 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

4 Religion

5 (b) Informal education/Recreation and leisure

6 (a) Professional 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

10 Game shows

- 11 General entertainment and human interest
- 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 Greek language.
5. 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.
6. 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.

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.