



Broadcasting Public Notice CRTC 2007-3

Ottawa, 12 January 2007

Addition of Caracol Television International, HTV and El Gourmet.com to the lists of eligible satellite services for distribution on a digital basis

*The Commission **approves** a request to add Caracol Television International, HTV and El Gourmet.com 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 16 May 2006 from Videotron Ltd. (Videotron) for the addition of three non-Canadian third-language services to the lists of eligible satellite services for distribution on a digital basis (the digital lists). Videotron described these services as follows:

Caracol Television International (Caracol Television) is a 24-hour-a-day/7-day-a-week non-Canadian channel from Columbia that broadcasts entirely in Spanish. It is considered a general interest channel, although its programming consists primarily of soap operas, as well as news and public affairs, informal educational, sports and drama programs. None of the programs are subtitled.

HTV is a 24-hour-a-day/7-day-a-week non-Canadian specialty channel. It offers programming focused on Latin American music, including pop, rock, ballads, salsa, merengue, cumbia and the most popular current songs. HTV features the latest music videos and exclusive interviews with the top Latin American stars. It is an American channel that broadcasts entirely in Spanish, drawing its content from all Latin American countries. None of the programs are subtitled.

El Gourmet.com is a 24-hour-a-day/7-day-a-week non-Canadian specialty channel that offers programming focused on culinary arts, including programs on cooking, culinary journeys all over the world, internationally renowned chefs, and wine and tobacco. Its programming is broadcast entirely in Spanish and is drawn primarily from Argentina and several other Latin American countries. None of the programs are subtitled.

2. The Commission subsequently issued *Call for comments on the proposed addition of Caracol Television International, HTV and El Gourmet.com to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2006-90, 21 July 2006 (Public Notice 2006-90).
3. The Commission received 29 comments in response to Public Notice 2006-90, all of which supported the addition of these services to the digital lists.

Commission's analysis and determinations

4. 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.
5. 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.
6. 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.
7. The Commission has examined the material filed by Videotron in support of the request to add Caracol Television, HTV and El Gourmet.com to the digital lists, and is satisfied that Caracol Television is a general interest service in the Spanish language, and that HTV and El Gourmet.com are niche services in the Spanish language, as described by their sponsor, Videotron. Thus, the services are appropriately subject to the approaches for such non-Canadian, third-language services set out in Public Notice 2004-96.

8. With respect to HTV and El Gourmet.com, the Commission is satisfied that there are no launched Canadian pay or specialty services with which these services 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 these services would be competitive with them. Accordingly, the Commission concludes that there are no Canadian pay or specialty services with which these non-Canadian services would be totally or partially competitive.
9. With respect to Caracol Television, the Commission stated in Public Notice 2004-96 that, where a general interest non-Canadian, third-language service offers 40% or more of its programming in any of the Cantonese, Mandarin, Italian, Spanish, Greek or Hindi languages, the service may only be distributed to customers who also subscribe to the Canadian service approved under the analog licensing framework that operates in the same language. In addition, any broadcasting distribution undertaking (BDU) wishing to distribute the non-Canadian service must also make available a general interest Category 2 service in the same principal language, provided that one has been launched. These rules were subsequently incorporated in the distribution and Linkage rules set out in *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Public Notice CRTC 2006-134, and *Distribution and linkage requirements for Class 1 and Class 2 licensees*, Broadcasting Public Notice CRTC 2006-135, both dated 20 October 2006.
10. Pursuant to the distribution and linkage rules mentioned above, subscribers who wish to receive Caracol Television must also subscribe to Telelatino, an ethnic specialty service that offers programming in Spanish and Italian. Further, BDUs offering Caracol Television must also make available at least one Canadian Spanish-language general interest Category 2 service, provided that one has been launched.
11. In light of the above, the Commission **approves** the addition of Caracol Television International, HTV and El Gourmet.com 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>