



Broadcasting Decision CRTC 2009-366

Route reference: 2009-36

Ottawa, 18 June 2009

Asian Television Network International Limited Across Canada

Application 2008-1211-6, received 5 September 2008

Public Hearing in the National Capital Region

30 March 2009

ATN – South Asian News – English – Category 2 specialty service

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

The application

1. Asian Television Network International Limited (ATN) filed an application for a broadcasting licence to operate ATN – South Asian News – English, a national, niche English-language ethnic Category 2 specialty programming undertaking devoted to news from the South Asian subcontinent aimed at the South Asian community. The applicant indicated that not less than 90% of all programming broadcast during the broadcast week would be in the English language and not more than 10% of the programming broadcast during any broadcast week would be drawn from program category 6(a) Professional sports.
2. ATN is a Canadian corporation controlled by Mr. Shan Chandrasekar, a Canadian citizen ordinarily resident in Canada, who owns 68.27% of the issued common shares. The remaining issued common shares are held by Canadian public shareholders (29.40%) and non-Canadian public shareholders (2.33%).
3. The applicant requested authorization to broadcast up to six minutes per hour of local advertising. The applicant also requested an exception to the closed captioning policy set out in Broadcasting Public Notice 2007-54; specifically ATN proposed to provide 100% closed captioning by the fourth rather than the first year of operations so as to allow it to fund the required closed captioning equipment. The applicant indicated that it did not have the capability to provide closed captioning for its English-language programming and that closed captioning would be provided as it became available.
4. The Commission received interventions in opposition to the application. The interventions can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings." The Commission has considered the interventions and is of the view that they do not raise any substantive issues relating to this application.

Commission's analysis and determinations

5. The Commission is satisfied that the application complies with the framework set out in Public Notice 2000-6 and with all applicable terms and conditions set out in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Asian Television Network International Limited for a broadcasting licence to operate the national, niche English-language ethnic Category 2 specialty programming undertaking ATN – South Asian News – English. The terms and **conditions of licence** are set out in the appendix to this decision.
6. With respect to the request to broadcast up to six minutes per hour of local advertising, the Commission notes that it 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 (see Broadcasting Public Notice 2005-104). In the present case, there were no interventions opposing the proposal to broadcast local advertising. The Commission therefore **approves** the applicant's request 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.
7. As regards ATN's request for an exception to the 100% closed captioning requirement, the Commission notes that as set out in Broadcasting Public Notice 2007-54, the onus is on the applicant to demonstrate a need, financial or otherwise, for the exception. The Commission finds that ATN has not demonstrated that meeting the 100% closed captioning requirement upon commencement of operations would be onerous for an established Canadian broadcaster such as itself. Accordingly, the Commission has imposed a **condition of licence** requiring the applicant to caption 100% of all English-language programming it broadcasts upon commencement of operations.

Reminder

8. The Commission reminds the applicant that distribution of this service is subject to the applicable distribution rules set out in Broadcasting Public Notice 2008-100.

Secretary General

Related documents

- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007

- *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*
- *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2, Public Notice CRTC 2000-171-1, 6 March 2001*
- *Licensing framework policy for new digital pay and specialty services, Public Notice CRTC 2000-6, 13 January 2000*

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 2009-366

Terms and conditions of licence for the Category 2 specialty programming undertaking ATN – South Asian News – English

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;
- the applicant has filed with the Commission an executed copy of its amended By-Laws in order to ensure that it will be in compliance at all times with *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; 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 June 2012. 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 2015.

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 4(d), which will not apply, and condition 4(a), 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, niche English-language ethnic Category 2 specialty programming service devoted to news from the South Asian subcontinent, aimed at the South Asian community.
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:
 - 1 News
 - 2 (a) Analysis and interpretation
 - (b) Long-form documentary

- 3 Reporting and actualities
 - 5 (a) Formal education and pre-school
 - (b) Informal education/Recreation and leisure
 - 6 (a) Professional sports
 - (b) Amateur sports
 - 11 General entertainment and human interest
 - 13 Public service announcements
4. No more than 10% of all programming broadcast during the broadcast week shall be drawn from the program category 6(a).
 5. The licensee shall broadcast not less than 90% of all programming during the broadcast week in the English language.
 6. The licensee shall caption 100% of all English-language programs over the broadcast day, consistent with the approach set out in *A new policy with respect to closed captioning*, Broadcasting Public Notice CRTC 2007-54, 17 May 2007.
 7. 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 1, *broadcast day* refers to the 24-hour period beginning each day at 6 a.m. or any other period approved by the Commission.