



## Broadcasting Decision CRTC 2009-372

Route reference: 2009-36

Ottawa, 18 June 2009

### **Asian Television Network International Limited** Across Canada

*Application 2008-1205-9, received 5 September 2008*

*Public Hearing in the National Capital Region*

*30 March 2009*

### **Commonwealth Broadcasting Network – Category 2 specialty service**

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

#### **Introduction**

1. Asian Television Network International Limited (ATN) filed an application for a broadcasting licence to operate Commonwealth Broadcasting Network, a national, English- and Hindi-language, general interest, ethnic Category 2 specialty programming undertaking that would target Caribbean and African communities. Not less than 90% of all programming broadcast during the broadcast week would be in the English language.
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 year of operations to allow it to fund the required closed captioning equipment. The applicant stated 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](http://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.
5. After examining the application, the Commission considers that the primary issue arising from this application is whether the proposed service would be directly competitive with existing Category 1 or analog pay or specialty services.

## **Would Commonwealth Broadcasting Network be directly competitive with existing Category 1 or analog pay or specialty services?**

6. In Broadcasting Public Notice 2005-104, the Commission stated that applications proposing new ethnic Category 2 services that would offer less than 90% of their programming in a third language will continue to be assessed under the case-by-case approach set out in Public Notice 2000-6, as is the case in the present application. Under the framework set out in Public Notice 2000-6, the Commission does not consider the impact that a new Category 2 service might have on an existing Category 2 service but does seek to ensure that newly licensed Category 2 services do not compete directly with any existing pay or specialty television service, including any Category 1 service.
7. In Public Notice 2000-171, the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an existing pay, specialty or Category 1 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.
8. In the present case, the Commission considers that the applicant proposed a very broad nature of service definition that would allow considerable flexibility in the type of programming that could be broadcast. Furthermore, the nature of service definition does not clearly define how the proposed programming would be complementary to existing analog pay and specialty services and Category 1 services. Given that no less than 90% of the programming would be in the English language, the proposed service could potentially be directly competitive with a number of existing English-language, pay and specialty services or Category 1 services. Finally, the applicant did not provide safeguards, such as limits on specific types or amounts of programming, to ensure that the programming would not be directly competitive to what is currently offered by existing analog pay and specialty services and Category 1 services.
9. In light of the above, the Commission **denies** the application by Asian Television Network International Limited for a broadcasting licence to operate the national, English- and Hindi-language, general interest, ethnic Category 2 specialty programming undertaking to be known as Commonwealth Broadcasting Network.

Secretary General

### **Related documents**

- *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, Public Notice CRTC 2000-171, 14 December 2000, and – 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 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>.*