



Broadcasting Decision CRTC 2011-315

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Route reference: 2010-935

Ottawa, 12 May 2011

Red Star Television Inc.
Across Canada

Application 2010-1465-4, received 10 September 2010
Public Hearing in the National Capital Region
11 February 2011

Red Star Television – Category 2 specialty service

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

*The Commission also **approves** the applicant's request relating to the broadcast of local advertising.*

Introduction

1. Red Star Television Inc. (Red Star) filed an application for a broadcasting licence to operate Red Star Television, a national, general interest third-language ethnic Category 2 specialty programming undertaking that would offer general entertainment, movies and news from China, as well as Canadian news pertaining to the Chinese community.
2. Red Star is owned and controlled by its sole shareholder, Ruijun Wang.
3. The applicant proposed to draw programming for the proposed service from the following program categories set out in Item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time: 1, 2(a), 2(b), 3, 4, 5(b), 6(a), 6(b), 7, 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 8(b), 8(c), 9, 10, 11 and 13.
4. Red Star stated that during the broadcast week, not less than 90% of the programming broadcast would be in the Mandarin language. Red Star also requested permission to devote up to 6 of the 12 minutes of advertising material during each clock hour to local advertising.¹

¹ "Local advertising" is advertising that does not fall within the definition of national or regional advertising, that is, advertising on behalf of persons who provide goods or services in more than one market and/or province.

5. The Commission received an intervention in opposition to the application from Fairchild Television Ltd. (Fairchild). The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
6. Fairchild, the licensee of Talentvision, an analog national, ethnic specialty service broadcasting 85% of its programming in the Mandarin language and of Fairchild Television, an analog national, ethnic specialty service broadcasting 100% of its programming in the Cantonese language opposed the application because the status of the buy-through requirement is currently unclear.

Commission's analysis and determinations

7. The Commission is satisfied that the application complies with the frameworks set out in Public Notice 2000-6 and Broadcasting Public Notice 2008-100, with the approaches set out in Broadcasting Public Notices 2003-61 and 2006-74, and with all applicable terms and conditions set out in Broadcasting Regulatory Policy 2010-786. Furthermore, given that the service will offer no less than 90% of its programming during the broadcast week in the Mandarin language, the Commission is satisfied that the proposed undertaking falls under the definition of a third-language ethnic service established in Broadcasting Public Notice 2005-104.
8. In Broadcasting Public Notice 2005-104, the Commission implemented a revised, open-entry approach for considering applications proposing new third-language Category 2 specialty services. Under this approach, the Commission no longer assesses the potential competitiveness of new, third-language ethnic Category 2 pay and specialty services with existing analog third-language ethnic specialty services. Instead, such applications are generally approved, subject in appropriate cases to both a buy-through requirement² and the criteria specified in Broadcasting Public Notice 2005-104. This means that broadcasting distribution undertakings choosing to distribute a new third-language category 2 service may only offer such services for those who also subscribe to the existing analog third-language ethnic specialty service operating in the same language.
9. In Broadcasting Public Notice 2008-100, the Commission stated that its existing rules with respect to third-language broadcasters would be streamlined. However, it was silent on the future applicability of the Canadian buy-through requirement. The Commission notes that it is currently reviewing the matter in the context of Broadcasting Notice of Consultation 2010-931.
10. In light of the above, the Commission finds it appropriate to impose at this time the buy-through requirement by way of a condition of licence. Should the Commission decide that the buy-through requirement is no longer appropriate as a result of the

² Under the buy-through requirement, 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 may only be offered to customers who also subscribe to the analog service operating in the same language.

proceeding currently underway in Broadcasting Notice of Consultation 2010-931, the applicant can apply to have the condition of licence removed.

11. Accordingly, the Commission **approves** the application by Red Star Television Inc. for a broadcasting licence to operate the national, general interest third-language ethnic Category 2 specialty programming undertaking Red Star Television. The Commission also **approves** the applicant's request for authority to broadcast up to six minutes per hour of local advertising. The terms and **conditions of licence** are set out in the appendix to this decision.
12. The Commission notes that Red Star Television will devote at least 90% of its program schedule to programming in the Mandarin language. In accordance with Broadcasting Public Notice 2005-104, 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.

Reminder

13. The Commission reminds the applicant that the distribution of this service is subject to the applicable distribution rules set out in Broadcasting Public Notice 2008-100.
14. 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 Broadcasting Public Notices 2007-51 and 2007-52, 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.

Secretary General

Related documents

- *Call for comments on amendments to the Broadcasting Distribution Regulations*, Broadcasting Notice of Consultation CRTC 2010-931, 10 December 2010
- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-786, 25 October 2010
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Public Notice CRTC 2007-52, 16 May 2007

- *Distribution and linkage requirements for Class 1 and Class 2 licensees,* Broadcasting Public Notice CRTC 2007-51, 16 May 2007
- *Regulatory framework for the licensing and distribution of high definition pay and specialty services,* Broadcasting Public Notice CRTC 2006-74, 15 June 2006
- *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
- *The regulatory framework for the distribution of digital television signals,* Broadcasting Public Notice CRTC 2003-61, 11 November 2003
- *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.*

Appendix to Broadcasting Decision CRTC 2011-315

Terms and conditions of licence for the Category 2 specialty programming undertaking Red Star Television

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 and has provided the Commission with a launch date for the service. The undertaking must be operational at the earliest possible date and in any event no later than 48 months from the date of this decision.

The licence will expire 31 August 2017.

Conditions of licence

1. The licence will be subject to the conditions set out in *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-786, 25 October 2010, except for condition 7d), which will not apply, and condition 7a), which is replaced by the following:

Except as otherwise provided in subparagraphs b) and c), the licensee shall not broadcast more than twelve minutes of advertising material during each clock hour, no more than six minutes of which may consist of local advertising.

For the purposes of this condition of licence, “local advertising” is advertising that does not fall within the definitions of national and regional advertising, that is, advertising on behalf of persons who provide goods or services in more than one market and/or province.

2. The licensee shall provide a national, general interest third-language ethnic Category 2 specialty programming service that will offer general entertainment, movies and news from China, as well as Canadian news pertaining to the Chinese community.
3. The programming shall be drawn exclusively from the following program 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
 - 4 Religion
 - 5 (b) Informal education/Recreation and leisure
 - 6 (a) Professional sports
 - (b) Amateur sports
 - 7 Drama and comedy
 - (a) Ongoing dramatic 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, improvisation, 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
 - 13 Public service announcements
4. The licensee shall broadcast not less than 90% of all programming during the broadcast week in the Mandarin language.
5. In accordance with the buy-through requirement implemented 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, Red Star Television may only be offered to customers who also subscribe to the analog national, ethnic specialty service Talentvision.

For the purposes of the conditions of this licence, including condition of licence 1, *broadcast day* means the period of up to 18 consecutive hours, beginning each day not earlier than six o'clock in the morning and ending not later than one o'clock in the morning of the following day, as selected by the licensee, or any other period approved by the Commission.