



Broadcasting Decision CRTC 2011-594

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Route reference: 2011-188

Ottawa, 19 September 2011

Bhupinder Bola, on behalf of a corporation to be incorporated Across Canada

Application 2010-1903-4, received 23 December 2010
Public hearing in the National Capital Region
17 May 2011

Chinese Mandarin TV – Specialty Category B service

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

The application

1. Bhupinder Bola, on behalf of a corporation to be incorporated (Bhupinder Bola [OBCI]), filed an application for a broadcasting licence to operate Chinese Mandarin TV, a national, general interest, third-language Category 2¹ specialty programming undertaking that would be devoted to the Chinese Mandarin community in Canada.
2. Bhupinder Bola (OBCI) will be owned and controlled by its sole shareholder and sole director, Mr. Bhupinder Bola.
3. The applicant proposed to draw programming 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(a), 5(b), 6(a), 6(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 8(b), 8(c), 9, 10, 11,² 12, 13 and 14.
4. The applicant stated that it would broadcast not less than 90% of its programming during the broadcast week in the Mandarin language and the remaining programming in the English language.

¹ As set out in Broadcasting Regulatory Policy 2011-455, as of 1 September, Category 2 services are renamed Category B services.

² In Broadcasting Regulatory Policy 2011-401, the Commission formally announced that it had amended program category 11 to add a new category 11(b) Reality television. Consistent with this change, the Commission has added an authorization to broadcast programming from both 11(a) General entertainment and human interest and the new 11(b) program category.

5. The Commission received an intervention in opposition to this application from Fairchild Television Ltd. (Fairchild). 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, in its view, the status of the buy-through requirement is currently unclear. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

6. In Broadcasting Public Notice 2005-104, the Commission implemented a revised, open-entry approach for considering applications proposing new third-language Category 2 (Category B) specialty services. Under this approach, the Commission no longer assesses the potential competitiveness of new, third-language ethnic specialty and pay Category B services with existing analog third-language ethnic specialty services. Instead, such applications are generally approved subject, in appropriate cases, to both a buy-through requirement, set out in the *Broadcasting Distribution Regulations*,³ and the criteria specified in Broadcasting Public Notice 2005-104. This means that broadcasting distribution undertakings choosing to distribute a new third-language Category B service may only offer such a service to those who also subscribe to an existing analog ethnic Category A service operating in the same language.
7. The Commission is satisfied that the application complies with all applicable policies, terms and conditions, including those set out in Public Notice 2000-6, Broadcasting Public Notice 2008-100 and Broadcasting Regulatory Policies 2010-786 and 2010-786-1. 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 service falls under the definition of a third-language service set out in the *Broadcasting Distribution Regulations* (see Broadcasting Regulatory Policy 2011-455).
8. In light of the above, the Commission **approves** the application by Bhupinder Bola, on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national, general interest, third-language specialty Category B service, Chinese Mandarin TV. The terms and **conditions of licence** are set out in the appendix to this decision.
9. The Commission notes that Chinese Mandarin TV will devote at least 90% of its program schedule to programming in the Mandarin language. In accordance with

³ As set out in section 27(4) of the *Broadcasting Distribution Regulations* (see Broadcasting Regulatory Policy 2011-455), except as otherwise provided under a condition of its licence, a licensee that distributes a general interest third-language Category B service to subscribers shall also distribute an ethnic Category A service to them if one is available in the same principal language.

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

10. The Commission reminds the applicant that distribution of this service is subject to the requirements set out in the *Broadcasting Distribution Regulations*.

Secretary General

Related documents

- *Amendments to the Broadcasting Distribution Regulations and other Commission Regulations*, Broadcasting Regulatory Policy CRTC 2011-455, 29 July 2011
- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011
- *Amendments to certain Regulations made under the Broadcasting Act to add a new program category "Reality television"*, Broadcasting Regulatory Policy CRTC 2011-401, 30 June 2011
- *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
- *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
- *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 2011-594

Terms and conditions of licence for the specialty Category B service Chinese Mandarin TV

Terms

A licence will be issued once the applicant has satisfied the Commission with supporting documentation that the following requirements have been met:

- an eligible Canadian corporation has been incorporated in accordance with the application in all material respects;
- 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 2018.

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 2010-786-1, 18 July 2011, 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 (12) minutes of advertising material during each clock hour, no more than six (6) 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 to 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 specialty Category B service devoted to the Chinese Mandarin community in Canada.
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 (a) Formal education and pre-school
(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 (a) General entertainment and human interest
(b) Reality television
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
4. The licensee shall broadcast no less than 90% of all programming during the broadcast week in the Mandarin language.
5. The broadcasting undertaking licensed hereby is designated as a Category B service.

For the purposes of the conditions of this licence:

- “broadcast day” refers to the 24-hour period beginning each day at 6 a.m. or any other period approved by the Commission, and
- “broadcast week” shall have the same meaning as that set out in the *Radio Regulations, 1986*.