



Broadcasting Decision CRTC 2014-166

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Route reference: 2013-536

Ottawa, 7 April 2014

Ethnic Channels Group Limited Across Canada

Application 2013-0580-6, received 4 April 2013
Public hearing in the National Capital Region
5 December 2013

South Asian Food TV – Specialty Category B service

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

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

The application

1. Ethnic Channels Group Limited (ECGL) filed an application for a broadcasting licence to operate South Asian Food TV, a national, niche third-language ethnic specialty Category B service that would be devoted to South-Asian cooking and food and cooking- and food-related programming aimed at the Hindi-speaking South-Asian community.
2. ECGL is controlled by Slava Levin.
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: 2(a), 2(b), 3, 5(b), 7(c), 7(d), 7(e), 8(a), 9, 10, 11(a), 11(b), 12, 13 and 14.
4. ECGL proposed to broadcast at least 90% of its programming in the Hindi language. It further requested that it be authorized to devote up to 6 of the 12 minutes of advertising material permitted during each clock hour to local¹ and regional advertising.

¹ “Local advertising” is advertising that does not fall within the definition of national or regional advertising, i.e., advertising by 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 Asian Television Network (Asian Television), to which the applicant replied. The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.

Commission's analysis and decisions

6. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issue it must address is whether the proposed service would be a general interest service (offering programming from a broad spectrum of program genres and categories) or a niche service (focused on a specific programming genre or a particular target group).
7. In Broadcasting Public Notice 2005-104, the Commission adopted an open-entry approach to applications proposing new third-language ethnic Category 2 (now Category B) pay and specialty services. Under this approach, applications for third-language services are generally approved. However, general interest third-language Category B services operating predominantly in one of the principal languages of the existing ethnic specialty Category A services, namely Cantonese, Greek, Hindi, Italian, Mandarin or Spanish, are subject to a requirement to be distributed with the Category A services operating in that language. Third-language niche services, whether or not they operate in any of those six languages, will generally be approved.
8. Asian Television submitted that ECGL did not provide clear evidence that its proposed service would be a niche Hindi-language specialty Category B service. It added that the applicant proposed to offer programming from nearly every program category without any limitations. Asian Television argued that to ensure that South Asian Food TV is a niche service, 10% monthly limitations should be applied to the broadcast of programming from program categories 7(c) Specials, mini-series or made-for-TV feature films, 7(d) Theatrical feature films aired on TV, 8(a) Music and dance other than music video programs or clips, 8(b) Music video clips, 9 Variety, 10 Game shows, 11(a) General entertainment and human interest and 11(b) Reality television.
9. ECGL replied that it adopted for this service an approach similar to what has been reflected in past Commission decisions regarding food-related services such as Food Network Canada and Masala TV. However, the applicant indicated that it is prepared to accept a condition of licence limiting the broadcast of programming drawn from program categories 3 Reporting and actualities and 9 Variety, to 10% of the broadcast month. ECGL further submitted that if the Commission found it necessary, it would accept removing program category 9 Variety in the list of program categories from which the service can draw its programming.

10. With respect to Asian Television's intervention, the Commission notes that it has previously recognized a similar service, Masala TV,² as being a niche programming service. The Commission is of the view that although the proposed service would offer programming from many different program categories, its nature of service definition is sufficiently clear and concise to prevent it from being categorized as a general interest service that would compete directly with existing specialty Category A services including Asian Television's ethnic specialty Category A service South Asian Television Network. Further, the applicant agreed to limitations on two program categories. The Commission considers that ECGL has demonstrated that its service is a niche service and not a general interest service. In light of this, the Commission considers that it is not necessary to impose conditions of licence on the service that are in addition to those proposed by ECGL.

Conclusion

11. 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 Hindi language, the Commission is satisfied that the service falls under the definition of a third-language service set out in the *Broadcasting Distribution Regulations*.

12. Accordingly, the Commission **approves** the application by Ethnic Channels Group Limited for a broadcasting licence to operate the national, niche third-language ethnic specialty Category B service South Asian Food TV. The Commission also **approves** the applicant's request for authority to broadcast up to six minutes per hour of local and regional advertising. The terms and **conditions of licence** are set out in the appendix to this decision.

13. The Commission notes that South Asian Food TV will devote at least 90% of its program schedule to programming in the Hindi language. In accordance with Broadcasting Public Notice 2005-104, the remainder of the program schedule (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.

² In Broadcasting Decision 2012-7, the Commission approved an application by FDR Media Group Inc., on behalf of a corporation to be incorporated, to operate a national niche third-language ethnic Category 2 specialty programming undertaking devoted to programming showcasing recipes from different parts of South Asia and popular cooking styles from north to south. It would also showcase the talents of master chefs from around the world as they cook South Asian delicacies.

Reminder

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

Secretary General

Related documents

- *Masala TV – Specialty Category B service*, Broadcasting Decision CRTC 2012-7, 9 January 2012
- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 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 2014-166

Terms, conditions of licence, expectations and encouragements for the specialty Category B service South Asian Food TV

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 2020.

Conditions of licence

1. The licensee shall adhere to the conditions set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, 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, i.e., advertising by persons who provide goods or services in more than one market and/or province.

2. In regard to the nature of service:
 - (a) The licensee shall provide a national, niche third-language ethnic specialty Category B service devoted to South-Asian cooking and food and cooking- and food-related programming aimed at the Hindi-speaking South-Asian community.
 - (b) 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:

- 2 (a) Analysis and interpretation
 - (b) Long-form documentary
 - 3 Reporting and actualities
 - 5 (b) Informal education/Recreation and leisure
 - 7 (c) Specials, mini-series or made-for-TV feature films
 - (d) Theatrical feature films aired on TV
 - (e) Animated television programs and films
 - 8 (a) Music and dance other than music video programs or clips
 - 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
- (c) The licensee shall not devote more than 10% of the programming broadcast each broadcast month to programs drawn from each of program categories 3 and 9.
- (d) The licensee shall broadcast at least 90% of all programming during the broadcast week in the Hindi language.
3. The service approved hereby is designated as a Category B service.

For the purposes of the conditions of this licence, “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 no 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.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.

Encouragements

The standard encouragements applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.

The Commission encourages the licensee to ensure that the portion of the service’s program schedule that is broadcast in the English and/or French languages serves to promote Canada’s linguistic duality.