



## Broadcasting Decision CRTC 2014-218

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Ottawa, 8 May 2014

**Asian Television Network International Limited**  
Across Canada

*Application 2013-1105-0*

### **Complaint by Asian Television Network International Limited against Ethnic Channels Group Limited regarding the programming of Zee TV Canada**

*The Commission dismisses a complaint alleging that the third-language niche specialty Category B service Zee TV Canada is operating as a general interest service.*

#### **Parties**

1. Asian Television Network International Limited (ATN) owns the ethnic Category A service South Asian Television (SATV). ATN is controlled by Mr. Shan Chandrasekar.
2. Ethnic Channels Group Limited (ECGL) is the licensee of the third-language niche specialty Category B service Zee TV Canada. ECGL is controlled by Mr. Slava Levin.

#### **Background**

3. In Broadcasting Decision 2013-53, the Commission approved an application by ECGL for a broadcasting licence to operate Hindi Women's TV, which officially launched as Zee TV Canada. The service's nature of service definition, set out in the appendix to that decision, reads as follows:
  - 2.a) The licensee shall provide a national niche third-language ethnic specialty Category B service devoted to information and entertainment programming of particular interest to women and targeting women in the Hindi-speaking community.
4. In regard to ECGL's original application for a broadcasting licence to operate Zee TV Canada, the Commission received an intervention in opposition from ATN. It argued that Zee TV Canada would offer programming from the same program categories authorized for SATV, with the exception of news and sports, and could therefore target a broad, family-oriented demographic. It further argued that ECGL's

application should be denied on the grounds that the proposed service was incorrectly categorized as a niche service, and should be considered a general interest service. This distinction is important because general interest third-language Category B services, unlike niche third-language Category B services (such as Zee TV Canada), are subject to a buy-through requirement.<sup>1</sup> Under this requirement, a general interest non-Canadian third-language service or a general interest Category B third-language service can only be purchased if a subscriber also purchases the ethnic Category A service in the same principal language, if one is available.

5. In its reply to the intervention, ECGL indicated that the proposed nature of service was modeled after the nature of service definition of W Network, a service recognized as providing a specific genre of programming intended for women. Further, it submitted that the program categories from which it intended to draw programming for broadcast were almost identical to those for Mehndi HD TV, a Category 2 specialty service licensed to FDR Media Group Inc.,<sup>2</sup> which also targets Hindi women. Finally, ECGL stated that it would limit, by condition of licence, the broadcast of certain types of programming (comedy series and sitcoms, some drama programming, music video clips and music video programs), if deemed appropriate by the Commission.
6. As set out in Broadcasting Decision 2013-53, the Commission found that ECGL had demonstrated that the proposed service would indeed be a niche service. To ensure that it would remain a niche service, the Commission imposed limits on the amount of programming that could be drawn from various program categories for broadcast on the service. This included limiting to 10% of the programming broadcast during the broadcast week certain types of drama programming (program categories 7(b) and 7(g)) and music programming (program categories 8(b) and 8(c)).

### **Present proceeding**

7. On 29 July 2013, the Commission received a complaint by ATN against ECGL regarding the niche status of Zee TV Canada. After posting the complaint on its website, the Commission received over 300 interventions, which are summarized below. In September 2013, ECGL provided an answer to the complaint. Following this, the Commission also received replies from both parties addressing information set out in prior submissions. The public record for this proceeding can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the application number provided above. Below, the Commission summarizes the positions of each party in regard to the substance of the complaint.

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<sup>1</sup> This requirement is set out in section 27(4) of the *Broadcasting Distribution Regulations*. In this regard, see the appendix to Broadcasting Regulatory Policy 2012-133.

<sup>2</sup> See Broadcasting Decision 2010-270.

## **ATN's position**

8. Contrary to ECGL's claim that its service was modeled after W Network, ATN submitted that Zee TV Canada is not adequately based on that service. Relying on what it considers to be its "undeniable experience," ATN stated that only 18.5 hours of the programming provided by Zee TV Canada is directed at women. It further stated that the public policy objectives under which W Network was licensed are not directly supported by Zee TV Canada.
9. According to ATN, although Zee TV Canada was licensed to offer a niche programming service for Hindi-speaking women, it is in fact offering programming targeting a broad audience since a large majority of the service's programming does not specifically target women. It submitted that Zee TV Canada is not adhering to its nature of service definition, and that its marketing activities do not represent it as a niche programming service for women.
10. Given the above, ATN concluded that Zee TV Canada should be reclassified as a general interest, rather than niche, Hindi-language service. It submitted that ECGL should therefore apply to the Commission for proper authorization to operate Zee TV Canada as a general interest service, and that this reclassification should be set out in a public document to be issued by the Commission. It further submitted that the Commission's buy-through requirement should apply.

## **ECGL's position**

11. According to ECGL, Zee TV Canada is adhering to its nature of service, and its marketing activities focus on that nature of service. It stated that the service provides programming that is of particular interest to Hindi women, much of which consists of reality and docu-dramas with a focus on women; Bollywood movies of thematic interest to women; lifestyle and entertainment programming; and dramatic/faith-based programs focusing on values and traditions. It further stated that many of the programs broadcast feature strong female characters in non-traditional/empowering roles. ECGL noted that some programs may be more "strongly women oriented" than others that are more thematically consistent with a women's service. It argued that when the service's programming is viewed as a whole, Zee TV Canada adheres to its nature of service definition.
12. In regard to the claim that Zee TV Canada should be reclassified as a general interest service, ECGL noted that many programs from general interest program categories (for example, news, sports and children's programming) are not broadcast on Zee TV Canada. It argued that men, children, youth, young adults or baby boomers are therefore not specifically targeted by the service's programming. It further noted that ATN's initial arguments did not make a specific reference to any particular programs.
13. ECGL also argued that having men as part of its viewing audience does not mean that the programming broadcast on Zee TV Canada does not target women. As an example, it noted that although men could find docu-drama programming appealing,

such programming is often focused directly on women's lives and/or relates to themes that are of particular interest to women, for example, relationships, family, romance and the supernatural.

14. ECGL alleged that the complaint filed by ATN is an attempt to entrench the privileged position of SATV. It argued that to reclassify Zee TV Canada as a general interest service would have the effect of significantly expanding the scope and impact of the above-noted buy-through requirement.

### **Interventions**

15. The vast majority of interventions supported ECGL's position and opposed the position of ATN. A large proportion stated outright that Zee TV Canada's programming does target women as a viewing audience. Others voiced general support for the service or characterized Zee TV Canada as family focused.

### **Commission's analysis and decision**

16. After examining the public record for this proceeding under applicable regulations and policies, the Commission considers that the issue it must address is whether Zee TV Canada, through its programming, is adhering to its nature of service definition and respecting its niche status.
17. The public policy objectives pursuant to which Category A and Category B services are licensed differ. The objective behind the licensing of third-language specialty Category B services, as set out in Broadcasting Public Notice 2005-104, is to create greater diversity in the broadcasting system and serve the needs of ethnically diverse Canadian audiences. Accordingly, this type of service is licensed on an open-entry basis, based on criteria that are more flexible than those for the licensing of other types of television services. More specifically, the Commission only considers whether the proposed Category B service would be directly competitive with any existing Category A service operating in the same language, and whether it would serve a niche audience. This contrasts with the licensing of a Category A service such as W Network, which targets a niche women's audience but was nevertheless licensed with different public policy objectives in mind.
18. The Commission approved ECGL's application for a broadcasting licence to operate Zee TV Canada because, as stated in Broadcasting Decision 2013-53, the application complied with all applicable policies, terms and conditions, and because ECGL demonstrated that the service would be a niche rather than a general interest service that would not directly compete with SATV. Further, as noted above, it imposed additional limits on specific types of programming to ensure that Zee TV Canada would remain a niche service.
19. The Commission has examined a sample of the programming offered by Zee TV Canada with a view to determining whether a reasonably frequent viewer, in watching various programs broadcast on the service, would conclude that the service targets women. In this regard, and despite the differences in the public policy objectives

behind the licensing of Zee TV Canada and W Network, the Commission has considered it appropriate to use W Network as a baseline for comparison in its examination of Zee TV Canada's programming due to the considerable weight placed by both parties on comparing the two services.

20. It is important to note that, as set out in its nature of service definition,<sup>3</sup> W Network is required to deliver information and entertainment programming of particular interest to women. However, it is quite possible that men and other viewers not part of the target audience may be watching the programming broadcast on the service. In fact, this is supported by data from the Broadcast Bureau of Measurement (BBM), which shows that viewership for W Network is by no means uniquely female. Nevertheless, when taken as a whole, the programming of W Network (which includes, among other things, lifestyle, entertainment, and food, cooking and makeover programs) generally targets women. The Commission notes that it last renewed the licence for W Network for a full term and did not identify any issues regarding the service's adherence to its nature of service. It further notes that neither ATN nor ECGL submitted that W Network does not provide a service targeting women.
21. Having examined the programming broadcast on Zee TV Canada (as well as the program descriptions provided on the record of the present proceeding and the audiovisual recordings of the programming of Zee TV Canada for the 26 May to 1 June 2013 broadcast week), the Commission finds that the majority of the programs broadcast are consistent with those that one would expect a niche service targeting women to air, and are comparable to those found on W Network. These programs include, among others, reality shows about women, serials in which women have prominent roles or in which the story lines focus on female characters and family issues, and programs on themes relating to the empowerment of women in Indian society as well as on traditional versus progressive cultural norms and roles of women, in Indian or other societies. The Commission did not find evidence in its examination of Zee TV Canada's programming that it was not operating as a service of particular interest to and targeting women in the Hindi-speaking community. Nor did the Commission find any evidence that the licensee was broadcasting programming that fell outside the limits imposed by the Commission on certain program categories to ensure that Zee TV Canada remains a niche service.
22. The Commission is therefore of the view that there is insufficient evidence on the record of the present proceeding to substantiate the complaint made by ATN. Accordingly, it finds that Zee TV Canada, through its programming, is adhering to its nature of service definition and is respecting its niche status.

## **Conclusion**

23. In light of the above, the Commission **dismisses** the complaint filed by Asian Television Network International Limited alleging that Zee TV Canada, the third-

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<sup>3</sup> See condition of licence 2.(a) in Appendix 6 to Broadcasting Decision 2011-446.

language niche specialty Category B service owned and operated by Ethnic Channels Group Limited, is operating as a general interest service.

Secretary General

### **Related documents**

- *Hindi Women's TV – Specialty Category B service*, Broadcasting Decision CRTC 2013-53, 12 February 2013, as corrected by *Hindi Women's TV – Specialty Category B service – Correction*, Broadcasting Decision CRTC 2013-53-1, 22 February 2013
- *Amendment to the buy-through requirement in section 27(4) of the Broadcasting Distribution Regulations*, Broadcasting Regulatory Policy CRTC 2012-133, 5 March 2012
- *Corus Entertainment Inc. – Group-based licence renewals*, Broadcasting Decision CRTC 2011-446, 27 July 2011
- *Mehndi HD TV – Category 2 specialty service*, Broadcasting Decision CRTC 2010-270, 13 May 2010
- *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