



## Broadcasting Decision CRTC 2010-268

Route reference: 2009-803

Ottawa, 13 May 2010

### **FDR Media Group Inc., on behalf of a corporation to be incorporated Across Canada**

*Application 2009-1485-5, received 3 November 2009*

*Public Hearing in the National Capital Region*

*22 February 2010*

### **Bollywood Times HD TV – Category 2 specialty service**

*The Commission **approves** an application for a broadcasting licence to operate a new third-language ethnic Category 2 specialty programming undertaking.*

#### **Introduction**

1. FDR Media Group Inc. (FDR), on behalf of a corporation to be incorporated (the applicant), filed an application for a broadcasting licence to operate Bollywood Times HD TV, a national, niche third-language ethnic Category 2 specialty service devoted to mainstream as well as art films in the Hindi-language not broadcast on other feature film channels. The channel would also promote local talent such as singers, dancers, directors, and musicians who want to break into Bollywood.
2. The applicant will be owned by FDR, a corporation owned by FDR Consultants Group Inc. (FDR Consultants). FDR Consultants is equally owned and controlled by the three shareholders David Martin, Shubhankar Maitra and Fariba Rawhani, all Canadians as per the *Direction to the CRTC (Ineligibility of non-Canadians)*.
3. FDR stated that 100% of the programming broadcast during the broadcast week would be in the Hindi language. FDR further indicated that it would accept a condition of licence requiring that 100% of the programming in each broadcast year of the licence term be in high definition format. FDR requested permission to devote up to 6 of the 12 minutes of advertising broadcast during each clock hour to local advertising.

#### **Interventions**

4. The Commission received two interventions commenting on this application, one from Asian Television Network International Limited (ATN) and the other from Shaw Communications Inc. (Shaw). These interventions, as well as the applicant's reply, are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

5. ATN is the licensee of SATV, a national, analog, ethnic television service that has the South Asian communities of Canada as its target audience. In its intervention, ATN stated that the applicant should narrow Bollywood Times HD TV's nature of service to ensure that the proposed service would not directly compete with SATV. Accordingly, ATN requested FDR to specify, in its nature of service, that Bollywood Times HD TV will *only* air mainstream as well as art films in Hindi not broadcast on other feature film channels.
6. Shaw's comment applied to all applications for Category 2 services considered as part of this proceeding. Shaw did not oppose these applications but wished to state for the record its concern that any new Category 2 service must be licensed in a manner that is consistent with the streamlined, flexible framework introduced in Broadcasting Public Notice 2008-100. Specifically, Shaw indicated that the Commission should explicitly state that new Category 2 services cannot be granted mandatory distribution orders under section 9(1)(h) of the *Broadcasting Act* and cannot become Category 1 services with access rights.

#### **FDR's reply**

7. FDR stated that it cannot change Bollywood Times HD TV's nature of service to distinguish it from SATV as suggested by ATN. FDR submitted that adding the term "only" to Bollywood Times HD TV's nature of service so that it would "only [air] mainstream as well as art films in Hindi not broadcast on other feature film channels" would result in high operating costs. Should it be constrained to limit Bollywood Times HD TV's programming to movies not broadcast on other feature film channels, FDR stated that it would be forced to broadcast only exclusive content on the service – something that it could not afford.
8. The applicant further submitted that the proposed service would be devoted to niche programming, and therefore asserted that there is no need to change the proposed nature of service.

#### **Commission's analysis and determinations**

9. After considering the positions of the applicant and the interveners, the Commission finds that the issue to be determined in its evaluation of this application relates to whether the proposed service would be directly competitive with existing Category 1 or analog pay or specialty services.

#### **Would Bollywood Times HD TV be directly competitive with existing Category 1 or analog pay or specialty services?**

10. The Commission is satisfied with the applicant's reply to the ATN intervention. It finds that Bollywood Times HD TV would be a niche service focusing on movies that are entirely in the Hindi language while SATV is a general interest service providing service in many languages. Accordingly, the Commission finds that the proposed service would not compete directly with SATV or any other existing Category 1 or analog pay or

specialty service. It is also satisfied that the application complies with the framework set out in Public Notice 2000-6, as well as with all applicable terms and conditions announced in Public Notice 2000-171-1. Furthermore, given that the service will offer 100% of its programming in the Hindi-language, the Commission is satisfied that the application falls under the definition of a third-language service established in Broadcasting Public Notice 2005-104.

11. Accordingly, the Commission **approves** the application by FDR Media Group Inc., on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national, niche third-language ethnic Category 2 specialty programming undertaking Bollywood Times HD TV. 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.

### **Reminder**

12. 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.

Secretary General

### **Related documents**

- *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*
- *Introductory statement – Licensing of new digital pay and specialty services – 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 to be appended to the licence. It 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>.*

## Appendix to Broadcasting Decision CRTC 2010-268

### Terms, conditions of licence and encouragement for the Category 2 specialty programming undertaking Bollywood Times HD 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. The undertaking must be operational at the earliest possible date and in any event no later than 36 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 13 May 2013. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

The applicant must file an executed copy of its amended By-Laws, as well as an executed copy of the amended By-Laws of all corporations that form part of its ownership chain, no later than 12 months following the launch of the service.

The licence will expire 31 August 2016.

#### Conditions of licence

1. The licence will be subject to the conditions set out in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001, except for condition 4d), which will not apply, and condition 4a) which is replaced by:

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.

2. The licensee shall provide a national, niche third-language ethnic Category 2 specialty programming service devoted to mainstream as well as art films in the Hindi-language not broadcast on other feature film channels. The channel will also promote local talent such as singers, dancers, directors, and musicians who want to break into Bollywood.

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:
  - 2 (b) Long-form documentary
  - 3 Reporting and actualities
  - 7 (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
  - 8 (a) Music and dance other than music video programs or clips
  - (b) Music video clips
  - (c) Music video programs
  - 11 General entertainment and human interest
  - 13 Public service announcements
4. The licensee shall broadcast 100% of all programming during the broadcast week in the Hindi language.
5. The licensee shall devote 100% of all programming during the broadcast week to programming in high definition format.
6. The licensee shall devote not less than 15% of the broadcast year, and of the evening broadcast period, to the broadcast of Canadian programs.
7. In order to ensure that the licensee complies at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998, the licensee shall file, for the Commission's prior review, a copy of any programming supply agreement and/or licence trademark agreement it intends to enter into with a non-Canadian party.

For the purposes of the conditions of this licence, including condition of licence 1, *broadcast day* refers to the 24-hour period beginning each day at 12 a.m. or any other period approved by the Commission.

### **Encouragement**

The Commission encourages the licensee to work on solutions for making third-language programming more accessible, and to caption third-language programming whenever possible.