



Broadcasting Decision CRTC 2014-167

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Route reference: 2013-536

Ottawa, 7 April 2014

Ethnic Channels Group Limited

Across Canada

Application 2013-0607-7, received 4 April 2013

Public hearing in the National Capital Region

5 December 2013

Travel XP Canada – 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 Travel XP Canada, a national, niche third-language ethnic specialty Category B service that would offer travel and travel-related lifestyle programming in the Hindi language.
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), 6(a), 7(d), 8(a), 8(b), 8(c), 9, 11(a), 11(b), 12, 13 and 14.
4. To ensure that the proposed service would not be directly competitive with existing Category A services, the applicant indicated that it would adhere to a condition of licence whereby during each broadcast month, no more than 10% of all programming broadcast would be drawn from each of categories 6(a) Professional sports and 7(d) Theatrical feature films aired on TV.
5. ECGL also indicated that it would adhere to a condition of licence whereby during each broadcast month, no more than 10% of all programming broadcast would be drawn from categories 8(b) Music video clips and 8(c) Music video programs combined.

6. 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.
7. 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

8. 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).
9. 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.
10. 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 along with a 10% limitation per broadcast month on only program categories 6(a) and 7(d). Asian Television argued that to ensure that Travel XP Canada is a niche service, the 10% limitations proposed by ECGL should also apply to program categories 8(a) Music and dance other than music video programs or clips, 8(b) Music video clips, 9 Variety, 11(a) General entertainment and human interest and 11(b) Reality television.

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.

11. ECGL replied that each of the proposed program categories is suitable for travel-themed programming. It submitted that the proposed limitations on programming from certain program categories would ensure that the service not be categorized as a general interest service. In addition, ECGL agreed to a 10% limitation on program categories 8(b) Music video clips and 8(c) Music video programs combined.
12. With respect to Asian Television's intervention, the Commission considers that ECGL has demonstrated that its service is a niche service and not a general interest service that would compete directly with Asian Television's ethnic specialty Category A service South Asian Television Network. The Commission is of the view that ECGL's proposed nature of service and limitations on certain program categories are sufficient to ensure that the proposed service will be a niche programming 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 in its application and reply comments.

Conclusion

13. 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*.
14. 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 Travel XP Canada. 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.
15. The Commission notes that Travel XP Canada 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.

Reminder

16. 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

- *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 2014-67

Terms, conditions of licence, expectations and encouragements for the specialty Category B service Travel XP Canada

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 offering travel and travel-related lifestyle programming in the Hindi language.
 - (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
 - 6 (a) Professional sports
 - 7 (d) Theatrical feature films aired on TV
 - 8 (a) Music and dance other than music video programs or clips
 - (b) Music video clips
 - (c) Music video programs
 - 9 Variety
 - 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 6(a) Professional sports and 7(d) Theatrical feature films aired on TV.
- (d) The licensee shall not devote more than 10% of the programming broadcast each broadcast month to programs drawn from program categories 8(b) Music video clips and 8(c) Music video programs combined.
- (e) 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.