



Broadcasting Decision CRTC 2011-306

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Route reference: 2010-935

Ottawa, 11 May 2011

Ethnic Channels Group Limited

Across Canada

Application 2010-1578-5, received 21 October 2010

Public Hearing in the National Capital Region

11 February 2011

Greek TV – Category 2 specialty service

*The Commission **approves** an application for a broadcasting licence to operate a new Category 2 specialty service.*

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

*The Commission **denies** the applicant's request to be relieved from obligations relating to the closed captioning of English- and French-language programming.*

The application

1. Ethnic Channels Group Limited filed an application for a broadcasting licence to operate Greek TV, a national, general interest third-language ethnic Category 2 specialty programming undertaking that would be devoted to the Greek-speaking communities in Canada. The Commission did not receive any interventions in connection with this application.
2. Ethnic Channels Group Limited 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: 1, 2(a), 2(b), 3, 4, 5(a), 5(b), 6(a), 6(b), 7, 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 8(b), 8(c), 9, 10, 11, 12, 13 and 14.
4. The applicant further requested permission to devote up to 6 of the 12 minutes of advertising material during each clock hour to local advertising.¹

¹ For the purposes of this condition of licence, "local advertising" is advertising that does not fall within the definition of national or regional advertising, that is, advertising on behalf of persons who provide goods or services in more than one market and/or province.

5. The applicant also requested that, for financial reasons, it be relieved from the requirement that it close caption all English- and French-language programming during the broadcast day, as set out in Broadcasting and Telecom Regulatory Policy 2009-430.

Commission's analysis and determinations

6. The Commission is satisfied that the application complies with the frameworks set out in Public Notice 2000-6 and Broadcasting Public Notice 2008-100, with the approaches set out in Broadcasting Public Notices 2003-61 and 2006-74, and with all applicable terms and conditions set out in Broadcasting Regulatory Policy 2010-786. Furthermore, given that the service will offer no less than 90% of its programming during the broadcast week in the Greek language, the Commission is satisfied that the proposed undertaking falls under the definition of a third-language ethnic service established in Broadcasting Public Notice 2005-104.
7. In Broadcasting Public Notice 2005-104, the Commission implemented a revised, open-entry approach for considering applications proposing new third-language Category 2 specialty services. Under this approach, the Commission no longer assesses the potential competitiveness of new, third-language ethnic Category 2 pay and specialty services with existing analog third-language ethnic specialty services. Instead, such applications are generally approved, subject in appropriate cases to both a buy-through requirement² and the criteria specified in Broadcasting Public Notice 2005-104. This means that broadcasting distribution undertakings choosing to distribute a new third-language category 2 service may only offer such service for those who also subscribe to the existing analog third-language ethnic specialty service operating in the same language.
8. In Broadcasting Public Notice 2008-100, the Commission stated that its existing rules with respect to third-language broadcasters would be streamlined. However, it was silent on the future applicability of the Canadian buy-through requirement. The Commission notes that it is currently reviewing the matter in the context of Broadcasting Notice of Consultation 2010-931.
9. In light of the above, the Commission finds it appropriate to impose the buy-through requirement at this time by way of a condition of licence. Should the Commission decide that the buy-through requirement is no longer appropriate as a result of the proceeding currently underway in Broadcasting Notice of Consultation 2010-931, the applicant can apply to have the condition of licence removed.
10. Accordingly, the Commission **approves** the application by Ethnic Channels Group Limited for a broadcasting licence to operate the national, general interest third-language ethnic Category 2 specialty programming undertaking Greek TV. The

² Under the buy-through requirement, third-language general interest Category 2 services that offer 40% or more of their program schedule in any of the Cantonese, Mandarin, Italian, Spanish, Greek or Hindi languages may only be offered to customers who also subscribe to the analog service operating in the same language.

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.

11. However, the Commission **denies** the applicant's request that, for financial reasons, it be relieved from the requirement that all English- and French-language programming during the broadcast day be closed captioned since it did not provide sufficient evidence to support that request.
12. The Commission notes that Greek TV will devote at least 90% of its program schedule to programming in the Greek language. In accordance with 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

13. The Commission reminds the applicant that distribution of this service is subject to the applicable distribution rules set out in Broadcasting Public Notice 2008-100.
14. Distribution of this service is subject to the distribution and linkage rules that apply to third-language, general interest Category 2 services that offer 40% or more of their program schedule in any of the Cantonese, Mandarin, Italian, Spanish, Greek, or Hindi languages, as set out in Broadcasting Public Notices 2007-51 and 2007-52, as amended from time to time. These rules require that such Category 2 services only be offered to customers who also subscribe to the analog service operating in the same language.

Secretary General

Related documents

- *Call for comments on amendments to the Broadcasting Distribution Regulations*, Broadcasting Notice of Consultation CRTC 2010-931, 10 December 2010
- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services*, Broadcasting Regulatory Policy CRTC 2010-786, 25 October 2010
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services* – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Public Notice CRTC 2007-52, 16 May 2007

- *Distribution and linkage requirements for Class 1 and Class 2 licensees*, Broadcasting Public Notice CRTC 2007-51, 16 May 2007
- *Regulatory framework for the licensing and distribution of high definition pay and specialty services*, Broadcasting Public Notice CRTC 2006-74, 15 June 2006
- *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
- *The regulatory framework for the distribution of digital television signals*, Broadcasting Public Notice CRTC 2003-61, 11 November 2003
- *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 2011-306

Terms and conditions of licence for the Category 2 specialty programming undertaking Greek 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 2017.

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, 25 October 2010, 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 minutes of advertising material during each clock hour, no more than six 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 on behalf of 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 ethnic Category 2 specialty programming service devoted to the Greek-speaking communities 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 General entertainment and human interest
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
4. The licensee shall broadcast not less than 90% of all programming during the broadcast week in the Greek language.
 5. In accordance with the buy-through requirement implemented in *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, Greek TV may only be offered to customers who also subscribe to the analog national, ethnic specialty service Odyssey Television Network.

For the purposes of the conditions of this licence, including condition of licence 1, *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 not 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.