



Broadcasting Public Notice CRTC 2005-17

Ottawa, 25 February 2005

Call for comments on a proposed new approach to the consideration of applications for Canadian third-language ethnic Category 2 pay and specialty services

In this notice, the Commission invites comments on a proposed new approach to the consideration of applications for Canadian third-language ethnic Category 2 pay and specialty services. Instructions for filing comments are set out at the end of the notice.

Background

1. In *Improving the diversity of third-language television services – A revised approach to assessing requests to add non-Canadian third-language television services to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2004-96, 16 December 2004 (Public Notice 2004-96), the Commission set out its revised approach to the assessment of requests to add non-Canadian third-language television services to the lists of eligible satellite services for distribution on a digital basis (the digital lists). The revised approach puts a greater emphasis on expanding the diversity and choice of television services available to underserved third-language ethnic communities in Canada. Under the revised approach, the Commission will generally approve requests to add non-Canadian general interest third-language services to the digital lists, subject, as appropriate, to certain distribution and linkage requirements described in Public Notice 2004-96 that are designed to foster the continued development of Canadian pay and specialty services.
2. In light of the revised approach to non-Canadian third-language services, the Commission stated, in Public Notice 2004-96, that it may also be appropriate to modify its approach to the consideration of applications for new Canadian third-language ethnic Category 2 pay and specialty services.

Current framework

3. The current licensing framework for Canadian Category 2 pay and specialty services (Category 2 services) is set out in *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000, and in *Revised procedures for processing applications for new digital Category 2 pay and specialty television services*, Broadcasting Public Notice CRTC 2004-24, 8 April 2004 (the Category 2 framework). The Category 2 framework establishes basic minimum licensing criteria for Category 2 services, including minimum required levels of Canadian content, eligibility requirements concerning Canadian ownership, and the requirement that such services not be directly competitive with any existing Category 1 or analog pay or specialty service (existing services). The Category 2 framework states that Category 2

services will generally be approved where they meet the minimum licensing criteria and comply with all applicable policies and regulations.

4. The Commission uses a case-by-case approach when assessing whether or not a proposed Category 2 service is directly competitive with existing services, and takes into account the evidence and argument presented by the parties in each case.
5. In the case of applications for ethnic Category 2 services, the Commission must assess their potential competitiveness with the five general interest third-language ethnic specialty services that were approved under the licensing framework for analog specialty services, namely, Telelatino Network Inc., Fairchild Television Ltd., Talentvision TV Ltd., Asian Television Network International (ATN) Limited and Odyssey Television Network Inc.
6. Since the establishment of the Category 2 framework, the Commission has approved a number of ethnic Category 2 services, of which 21 are now made available by various broadcasting distribution undertakings across Canada. At the present time, 30 additional ethnic Category 2 services have Commission authorization, but have not commenced operation.

Proposed framework

7. In order to expand the diversity and choice of Canadian third-language ethnic television services, the Commission proposes to establish a more open-entry framework for third-language ethnic Category 2 pay and specialty services. The Commission notes that the existing Category 2 framework will continue to apply to English- and French-language Category 2 services and to ethnic Category 2 services that do not fall under the definition of a third-language programming service that is set out below.
8. Under the proposed framework, the Commission would generally approve an application for a licence for a third-language ethnic Category 2 service provided that the proposed service satisfies the following criteria:
 - The service must meet the minimum licensing criteria for Category 2 services; in particular, it would be required to broadcast minimum levels of Canadian content and comply with the Commission's ownership requirements. The Commission would, however, no longer assess the potential competitiveness of a proposed third-language ethnic Category 2 service with existing services.

- The service must qualify as a third-language programming service. Consistent with the approach adopted for non-Canadian services in Public Notice 2004-96, the Commission proposes to define a third-language programming service as one that provides at least 90% of its programming in languages other than English or French, excluding programs that are accompanied by secondary audio programming or subtitles in either English or French.

Other matters – advertising

9. The Commission generally permits national specialty services to broadcast only national advertising. However, since third-language markets are smaller and less able to sustain national specialty services, the Commission has generally permitted ethnic analog and ethnic Category 2 specialty services to broadcast up to six minutes per hour of local advertising, upon application and approval by the Commission. In order to further streamline its approach to third-language ethnic Category 2 services, the Commission seeks comment on the advisability of establishing a general rule that would permit such services to broadcast up to six minutes per hour of local advertising.

Call for comments

10. The Commission invites parties to comment on the appropriateness of its proposed approach to the licensing of third-language ethnic Category 2 services, including the proposed criteria for approving such services. The Commission further seeks comments on the approach to local advertising on third-language ethnic Category 2 services set out above.
11. The Commission will accept comments that it receives on or before **29 March 2005**.
12. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding, provided that the procedures for filing set out below have been followed.

Procedures for filing comments

13. Interested parties can file their comments to the Secretary General of the Commission:
 - **by using the**
[Broadcasting Intervention/Comments Form](#)
 - OR
 - **by mail to**
CRTC, Ottawa, Ontario K1A 0N2
 - OR
 - **by fax at**

(819) 994-0218

14. Submissions longer than five pages should include a summary.
15. Please number each paragraph of your submission. In addition, please enter the line ***End of document*** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.
16. The Commission will make comments filed in electronic form available on its web site at www.crtc.gc.ca but only in the official language and format in which they are submitted. Such comments may be accessed in the *Public Proceedings* section of the CRTC web site. Copies of all comments, whether filed on paper or in electronic form, will also be placed on the public examination file.
17. The Commission encourages interested parties to monitor the public examination file and the Commission's web site for additional information that they may find useful when preparing their comments.

Examination of public comments and related documents at the following Commission offices during normal business hours

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Les Terrasses de la Chaudière
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Secretary General

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