



Broadcasting Decision CRTC 2006-474

Ottawa, 6 September 2006

**Fairchild Television Ltd. and LS Movie Channel Limited,
partners in a general partnership carrying on business as
FLS Movie Channel Partnership**
Across Canada

Application 2004-1489-7

Public Hearing in the National Capital Region

1 May 2006

FLS Movie Channel – Category 2 specialty service

*In this decision, the Commission **approves** an application for a broadcasting licence to operate a new Category 2 specialty programming undertaking.*

The application

1. The Commission received an application by Fairchild Television Ltd. and LS Movie Channel Limited, partners in a general partnership carrying on business as FLS Movie Channel Partnership, for a broadcasting licence to operate a national, ethnic Category 2¹ specialty programming undertaking to be known as FLS Movie Channel.
2. The applicant proposed to offer a third-language niche service that would consist of feature films, made-for-TV feature films and long-form documentaries in Mandarin, Cantonese, Vietnamese and other East Asian languages. All of the programming would be drawn from the following categories set out in Schedule 1 to the *Specialty Services Regulations, 1990*: 2(b) Long-form documentary; 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV; 8(a) Music and dance other than music video programs or clips; 9 Variety; 11 General entertainment and human interest; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.
3. The applicant proposed that, in each broadcast week, not less than 40% of all programming would be in the Mandarin language, not less than 40% would be in the Cantonese language and the remaining 20% would be in Korean, Japanese, Vietnamese and other East Asian languages.
4. The applicant requested that it be authorized, by condition of licence, to broadcast up to six minutes per hour of local and regional advertising.

¹ The Category 2 services are defined in *Introductory statement – Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000.

5. The Commission did not receive any interventions in connection with this application.

Commission's analysis and determinations

6. The Commission is satisfied that the application is in conformity with all applicable terms and conditions announced in *Introductory statement – Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001 (Public Notice 2000-171-1). Furthermore, given that the service will offer more than 90% of its programming in third languages, the Commission is satisfied that the application falls under the definition of a third-language services, established 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 (Public Notice 2005-104). Accordingly, the Commission **approves** the application by Fairchild Television Ltd. and LS Movie Channel Limited, partners in a general partnership carrying on business as FLS Movie Channel Partnership, for a broadcasting licence to operate the national niche third-language ethnic Category 2 specialty programming undertaking, FLS Movie Channel.
7. With respect to the request to broadcast up to six minutes per hour of local or regional advertising, the Commission notes that, as set out in Public Notice 2005-104, the Commission generally permits new third-language services to broadcast up to six minutes per hour of such advertising unless an intervener makes a compelling case to the contrary. In the present case, there were no interventions opposing the proposal to broadcast local and regional advertising. The Commission therefore **approves** the applicant's request for authority to broadcast up to six minutes per hour of local and regional advertising. A **condition of licence** to that effect is set out in the appendix to this decision.
8. The Commission notes that FLS Movie Channel will devote all of its program schedule to programming in Mandarin, Cantonese, Korean, Japanese, Vietnamese and other East Asian languages. In accordance with Public Notice 2005-104, the Commission has imposed a **condition of licence** that requires FLS Movie Channel to devote not less than 90% of its program schedule to programming in those languages. 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.
9. The licence will expire 31 August 2013, and will be subject to the **conditions** set out in Public Notice 2000-171-1, as well as to the **conditions** set out in the appendix to this decision.

Issuance of the licence

10. 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. 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 6 September 2009. 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.

Secretary General

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 2006-474

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 or regional advertising.

2. The licensee shall provide a national, niche third-language ethnic Category 2 specialty programming service consisting of feature films, made-for-TV feature-films and long-form documentaries in Mandarin, Cantonese, Korean, Japanese, Vietnamese and other East Asian languages.
3. The programming shall be drawn exclusively from the following categories, as set out in Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:

2 (b) Long-form documentary

7 (c) Specials, mini-series or made-for-TV feature films

(d) Theatrical feature films aired on TV

8 (a) Music and dance other than music video programs or clips

9 Variety

11 General entertainment and human interest

12 Interstitials

13 Public service announcements

14 Infomercials, promotional and corporate videos

4. Not less than 90% of all programming broadcast during the broadcast week shall be in the following languages: Mandarin, Cantonese, Korean, Japanese, Vietnamese and other East Asian languages.

For the purposes of the conditions of this licence, including condition of licence no. 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.