



Broadcasting Decision CRTC 2006-154

Ottawa, 21 April 2006

Ethnic Channels Group Limited Across Canada

Application 2004-1332-8
Public Hearing at Calgary, Alberta
21 February 2006

Polish News 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 Ethnic Channels Group Limited (Ethnic Channels), for a broadcasting licence to operate a national, third-language, ethnic, Category 2¹ specialty programming undertaking to be known as Polish News Channel.
2. The applicant proposed to offer a general interest service that would be devoted to the Polish-speaking community. The programming would consist primarily of news, information, public affairs, financial programming and would also include some general entertainment programming. The applicant proposed that not less than 90% of all programming broadcast during the broadcast week would be in the Polish language. All of the programming would be drawn from the following categories set out in Schedule 1 to the *Specialty Services Regulations, 1990*: 1 News; 2(a) Analysis and interpretation; 2(b) Long-form documentary; 3 Reporting and actualities; 4 Religion; 5(b) Informal education/Recreation and leisure; 6(a) Professional sports; 6(b) Amateur sports; 7(a) Ongoing drama series; 7(b) Ongoing comedy series (sitcoms); 7(c) Specials, mini-series or made-for-TV feature films; 7(d) Theatrical feature films aired on TV; 7(e) Animated television programs and films; 7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy; 7(g) Other drama; 8(a) Music and dance other than music video programs or clips; 8(b) Music video clips; 8(c) Music video programs; 9 Variety; 10 Game shows; 11 General entertainment and human interest; 12 Interstitials; 13 Public service announcements; and 14 Infomercials, promotional and corporate videos.

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.

Interventions

3. The Commission received a comment from Telewizja Polska Canada Inc. (TPC) in connection with this application. TPC represents two Polish-language services in Canada: TV Polonia, which is included on the CRTC List of Part 2 Eligible Satellite Services and PolSat 2 International, which is currently the subject of an application by The Canadian Cable Telecommunications Association for inclusion on the CRTC List of Part 2 Eligible Satellite Services for Digital Distribution Only.
4. TPC expressed concern that Ethnic Channels is applying for a second Polish-language service when it has not yet launched a previously authorized Polish service approved in *Polish TV – Category 2 specialty service*, Broadcasting Decision CRTC 2003-445, 4 September 2003.
5. TPC further commented that the present application is not necessary if Ethnic Channels has a real intention to launch its previously approved service, known as Polish TV.

Applicant's reply

6. Ethnic Channels noted that licensees are not prohibited from operating more than one specialty programming undertaking devoted to a single third-language community, and that it had already commenced operation of its other licensed Polish-language service.

Commission's analysis and determination

7. In *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000, the Commission implemented a competitive, open-entry approach to licensing Category 2 services. While the Commission does not consider the impact that a new Category 2 service might have on an existing Category 2 service, it does seek to ensure that newly licensed Category 2 services do not compete directly with any existing pay or specialty television service, including any new Category 1 service.
8. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, and Public Notice CRTC 2000-171-1, 6 March 2001 – *Corrected Appendix 2* (Public Notice 2000-171-1), the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an analog pay or specialty or existing Category 1 service, although not with an existing Category 2 service. The Commission examines each application in detail, taking into consideration the proposed nature of service and the unique circumstances of the genre in question.
9. The Commission finds that the current application is not directly competitive with an analog pay or specialty or existing Category 1 service. Consequently, the application does not raise any concerns with the Commission.

10. The Commission is therefore satisfied that the application is in conformity with all applicable terms and conditions announced in Public Notice 2000-171-1. Accordingly, the Commission **approves** the application by Ethnic Channels Group Limited for a broadcasting licence to operate the national, Polish-language Category 2 specialty programming undertaking, Polish News Channel.
11. The Commission notes that Ethnic Channels will devote at least 90% of its program schedule to programming in the Polish language. In accordance with *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 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.
12. The licence will expire 31 August 2012, 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

13. 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 21 April 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 2006-154

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.
2. The licensee shall provide a national, third-language, general interest, ethnic Category 2 specialty programming service devoted to the Polish-speaking community. The programming shall consist primarily of news, information, public affairs, financial programming and shall also include some general entertainment programming.
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:
 - 1 News
 - 2 (a) Analysis and interpretation
(b) Long-form documentary
 - 3 Reporting and actualities
 - 4 Religion
 - 5 (b) Informal education/Recreation and leisure
 - 6 (a) Professional sports
(b) Amateur sports
 - 7 Drama and comedy
 - (a) Ongoing drama 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, improvisations, 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. Not less than 90% of all programming broadcast during the broadcast week shall be in the Polish language. The remainder of the programming schedule may be in one or both of Canada's official languages.
5. With respect to the conditions of licence relating to advertising, 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, condition 4d) will not apply, and condition 4a) will be 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.

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.