



Broadcasting Decision CRTC 2006-558

Ottawa, 28 September 2006

MediaNet Canada Ltd.

Across Canada

Application 2004-1388-1

Public Hearing at Edmonton, Alberta

19 June 2006

TV Español (ETV) – 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 MediaNet Canada Ltd. for a broadcasting licence to operate a national, ethnic Category 2¹ specialty programming undertaking to be known as TV Español (ETV).
2. The applicant proposed to offer a general interest service that would be devoted to the Spanish-speaking community. 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; 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; 10 Game shows; 11 General entertainment and human interest; and 13 Public service announcements.
3. The applicant proposed that not less than 75% of all programming broadcast during the broadcast week would be in the Spanish language. In addition, the applicant stated that it would not broadcast any of the programming drawn from program category 6(a) in the English language.

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.

Intervention

4. The Commission received an intervention in opposition to this application by NMTV Inc., also known as Nuevo Mundo Television (Nuevo Mundo), the licensee of a Spanish-language Category 2 service known as NMTV. In Nuevo Mundo's view, there are already too many Spanish-language services available in Canada in comparison to the number of Spanish-language services available in the United States or to the number of French-language services available in Canada.
5. The applicant did not reply to the intervention.

Commission's analysis and determination

6. With respect to the concerns raised by the opposing intervener, the Commission notes that, in *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000, it 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 Category 1 service.
7. 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 Notices 2000-171 and 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 existing analog pay or specialty or Category 1 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.
8. In the present case, the Commission considers that TV Español (ETV)'s proposed nature of service, which would require that it be targeted to the Spanish-speaking community in Canada, would be an important factor in distinguishing it from Telelatino, a national analog specialty service, which broadcasts approximately half of its schedule to audiences other than the Spanish-speaking community. The Commission notes that Telelatino Network Inc., the licensee of Telelatino, did not file an intervention to this application, nor did the licensee of any existing analog pay or specialty or Category 1 service. Accordingly, the Commission is satisfied that the proposed TV Español (ETV) service would not be directly competitive with Telelatino or with any other existing analog pay or specialty or Category 1 service.
9. Based on its examination of this application, the Commission finds that it is in conformity with all applicable terms and conditions announced in Public Notices 2000-171 and 2000-171-1. Accordingly, the Commission **approves** the application by MediaNet Canada Ltd. for a broadcasting licence to operate the national, ethnic Category 2 specialty programming undertaking, TV Español (ETV).

10. 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

11. 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 28 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 2006-558

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, general interest ethnic Category 2 specialty programming service devoted to the Spanish-speaking community.
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
 - 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
 - 10 Game shows
 - 11 General entertainment and human interest
 - 13 Public service announcements

4. Not less than 75% of the programming broadcast during the broadcast week shall be in the Spanish language.
5. The licensee shall not broadcast any English-language programming drawn from category 6(a) Professional sports.

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.