



## Broadcasting Public Notice CRTC 2006-45

Ottawa, 7 April 2006

### **Addition of Sun TV to the lists of eligible satellite services for distribution on a digital basis**

*The Commission **approves** a request to add Sun TV to the lists of eligible satellite services for distribution on a digital basis. The revised lists including this service are set out as an appendix to Revised lists of eligible satellite services, Broadcasting Public Notice CRTC 2006-46 issued today.*

#### **Introduction**

1. The Commission received a request dated 13 October 2005 from the Canadian Cable Telecommunications Association (CCTA) for the addition of Sun TV, a non-Canadian service, to the lists of eligible satellite services for distribution on a digital basis (the digital lists). The CCTA described the service as follows:

Sun TV is a 24-hour general interest service from India offering programming in the Tamil language. Its programming includes news, documentaries, films, drama series, talk shows, game shows, music and children's programming.

2. The Commission subsequently issued *Call for comments on the proposed addition of Sun TV to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2005-125, 16 December 2005.
3. On 13 February 2006, Rogers Cable Communications Inc. (Rogers) advised that, with the wind-up of the CCTA announced on 10 February 2006, it would take over as the Canadian sponsor of Sun TV.

#### **Positions of parties**

4. The Commission received two comments concerning the request to add Sun TV. An individual submitted that there were too many foreign digital television services and that there should be a limit to these types of requests. Quebecor Media Inc. (QMI) filed comments concerning the potential for confusion between the non-Canadian service Sun TV (the non-Canadian Sun TV) and the Canadian service Sun TV (the Canadian Sun TV), an independent, English-language television station serving the Toronto and Hamilton markets and owned by TVA Group Inc. and Sun Media Corporation. While QMI did not wish to oppose the addition of the non-Canadian Sun TV, it requested that the Commission approve the non-Canadian service's addition to the digital lists with the condition that the brand name of the service be changed so as not to create any confusion with the use of the name in Canada.

5. QMI noted that the Canadian Sun TV has been an established brand in Canada and that an application to register it as a trade-mark was filed on 29 June 2005. QMI submitted that, if the Commission were to approve the addition of the non-Canadian Sun TV without the suggested condition, QMI would have to engage in legal procedures to object to the use of the brand name. With its submission, QMI provided comments by the Canadian Sun TV which stated that the Commission should put in place the necessary measures to avoid such conflicts and litigation.

#### **Sponsor's reply**

6. The CCTA submitted that the Commission should only consider whether the addition of the non-Canadian Sun TV is consistent with the approach set out 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), and should not try to resolve issues related to the use of trademarks and trade names, which are beyond its jurisdiction. The CCTA also noted that the Canadian Sun TV is an English-language conventional television station that receives priority carriage on the basic service of cable undertakings that operate within the Canadian station's market. By contrast, the non-Canadian Sun TV is a Tamil-language satellite programming undertaking originating from India, which will be distributed only as a discretionary, digital service. In the CCTA's view, the two services offer completely different programming and there is no likelihood of confusion among subscribers.
7. The CCTA therefore submitted that the Commission should add the non-Canadian Sun TV to the digital lists without the condition requested by QMI, and leave it to the parties to resolve any issues arising from the name of the service.

#### **Commission's analysis and determinations**

8. In 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 digital lists, as well as specific information that Canadian sponsors must file in support of their requests. The Commission also stated that, going forward, requests to add non-Canadian, general interest, third-language services to the digital lists would generally be approved, subject, as appropriate, to new distribution and linkage requirements.
9. The Commission has examined the material filed in support of the request to add the non-Canadian Sun TV to the digital lists, and is satisfied that the service is a general interest, third-language service in the Tamil language, as described by the CCTA. Thus, it is appropriately subject to the approach for such services set out in Public Notice 2004-96.
10. With respect to the concerns raised by QMI regarding the use of the name Sun TV, the Commission considers that this is a matter between the owner of the Canadian Sun TV and the non-Canadian Sun TV that is best left to the parties to resolve.

11. In light of the above and consistent with the approach set out in Public Notice 2004-96, the Commission **approves** the addition of the non-Canadian Sun TV to the digital lists without the condition requested by QMI.
12. The revised lists including this service are set out as an appendix to *Revised lists of eligible satellite services*, Broadcasting Public Notice CRTC 2006-46), *issued today*. The Commission notes that the distribution of this service is subject to the distribution and linkage rules that apply to third-language general interest services added to the digital lists after 16 December 2004, as set out in *Distribution and linkage requirements for Class 1 and Class 2 licensees*, Broadcasting Public Notice CRTC 2005-119, 14 December 2005, and *Linkage requirements for direct-to-home (DTH) satellite distribution undertakings*, Broadcasting Public Notice CRTC 2005-120, 14 December 2005.

Secretary General

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