



Broadcasting Decision CRTC 2005-44

Ottawa, 4 February 2005

**Ramanjeet S. Sivia, on behalf of a corporation to be incorporated
Across Canada**

*Application 2004-0438-5
Public Hearing in the National Capital Region
29 November 2004*

Virasat TV – Category 2 specialty service

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

The application

1. The Commission received an application by Ramanjeet S. Sivia, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a national ethnic Category 2¹ specialty programming undertaking to be known as Virasat TV.
2. The applicant proposed to offer a service that would be directed primarily to young, Urdu-, Hindi- and Punjabi-speaking Canadians of the South Asian community. The service would consist of news and cultural programs as well as programming that would help enable viewers to learn the French language. The applicant proposed to broadcast 100% ethnic programming, of which a minimum of 73% would be presented in a variety of languages, including 38% in Punjabi, 30% in Hindi, and 5% in Urdu. A maximum of 27% of all programming would be presented in either English or French.
3. The applicant proposed to offer programming from the following categories:
 - 1 News
 - 4 Religion
 - 5 (a) Formal education and pre-school
(b) Informal education/Recreation and leisure
 - 6 (b) Amateur sports
 - 7 Drama and comedy
 - (a) Ongoing drama series
 - (c) Specials, mini-series, made-for-TV feature films
 - (f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy

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.

- 8 (b) Music video clips
- (c) Music video programs
- 11 General entertainment and human interest
- 13 Public service announcements

The interventions

4. The Commission received a comment on this application from Rogers Cable Communications Inc. (Rogers) and ten interventions expressing support for this application. It also received two opposing interventions from Asian Television Network International Limited and its subsidiary, South Asian Television Canada Limited (SATV) (ATN/SATV), the licensee of ATN, a national analog ethnic specialty television service that is targeted to Canada's South Asian communities, and from S.S.TV Inc., the licensee of SSTV, a Category 2 specialty service dedicated to programming that focuses on Punjabi religious teachings and religion as well as music, dance and video based on Punjabi culture and news and information concerning East Indian countries and Punjabi communities in Canada.
5. Rogers commented that the Commission should issue a moratorium on the licensing of any new ethnic Category 2 services until it has completed the review of its approach to assessing requests to add non-Canadian third-language television services to the Commission's lists of satellite services eligible for distribution on a digital basis².
6. For its part, ATN/SATV noted that the proposed service would broadcast more than 60% in the Urdu, Hindi and Punjabi languages. It added that the programming categories proposed by the applicant included categories that make up a large part of ATN's daily schedule and that the proposed service would direct much of its programming towards youth of the South Asian community, the same target audience as ATN. For these reasons, ATN/SATV expressed concern that the proposed service would compete directly with ATN and "impede ATN/SATV's ability to survive in this marketplace."
7. S.S.TV Inc. expressed concern that the proposed service would compete directly with SSTV, given that it would provide the same genre of programming and a similar language mix as SSTV.

The applicant's replies

8. In response to Rogers' comment, the applicant argued that the Commission should not place a moratorium on the licensing of new ethnic Category 2 services while it reviews its approach to assessing requests to add non-Canadian third-language television services to the list of satellite services eligible for digital distribution, given that a new policy could still be some time away. According to the applicant, postponing decisions on third-language applications would unfairly penalize applicants who are prepared to start new services.

² *Call for comments on proposals for the addition of non-Canadian satellite services to the list of services eligible for digital distribution*, Broadcasting Public Notice CRTC 2003-36, 11 July 2003.

9. With respect to ATN/SATV's intervention, the applicant noted that ATN was licensed as a general interest service providing programming in some 15 South Asian languages. The applicant explained that it intends to target 16-to-30-year-old first-generation Canadians of South Asian communities – an underserved and much narrower demographic than that served by ATN. The applicant indicated that its programming would therefore complement rather than compete directly with ATN.

10. The applicant also submitted that the description of the proposed service as stated in its application did not clearly set out its intention to provide a service with a youth-oriented focus. It offered the following clarified description of its service:

Virasat will be a channel that focuses on providing youth in the South Asian community, specifically those speaking Urdu, Hindi and Punjabi, with youth-focused, up-to-date news coverage, music, entertainment, movies, lifestyle and issue-related programming, as well as knowledge in French.

11. The applicant also noted that its application contained an error in the listing of categories from which it wished to draw programming. The applicant does not wish to air programming from category 7(c) but does wish to air programming from category 7(d) (Theatrical feature films aired on TV). Furthermore, to address the intervener's concerns about programming duplication, the applicant proposed to limit the amount of category 7(a) programming to not more than 12% of the broadcast week, and the amount of category 7(d) programming to not more than 25% of the broadcast week. The applicant noted that it does not intend to broadcast any films in English.

12. In order to further address the concerns raised by ATN/SATV and to more accurately reflect the service's intended programming, the applicant also proposed to delete category 6(b) from its programming category list. The applicant also requested to add category 8(a) (Music and dance other than music video programs or clips) to the list of categories from which it can draw programming in order to help allow the service to meet its goal to showcase talent within the South Asian youth community.

13. In response to S.S.TV Inc.'s intervention, the applicant noted that in *Licensing framework policy for new digital pay and specialty services*, Public Notice CRTC 2000-6, 13 January 2000 (Public Notice 2000-6), the Commission stated that "Category 2 services that are competitive with each other will be licensed." The applicant stated that, given that SSTV is a Category 2 service, it is not entitled to genre protection.

The Commission's analysis and determination

14. With respect to Rogers' comment, the Commission notes that it has completed its review and set out its findings in *Improving the diversity of third-language television services – A revised approach to assessing requests to add non-Canadian third-language television services to lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2004-96, 16 December 2004. This review was announced in Broadcasting Public Notice CRTC 2004-53, 15 July 2004, in which the Commission called for comments on various questions related to its assessment of requests to add non-Canadian third-language services to its lists of eligible satellite services for distribution on a digital basis.
15. With respect to the S.S.TV Inc. intervention, the Commission reiterates that in Public Notice 2000-6, the Commission implemented a competitive, open-entry approach to licensing Category 2 services and does not consider the impact that a new Category 2 service might have on an existing Category 2 service. Nevertheless, 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.
16. In *Introductory statement - Licensing of new digital pay and specialty services*, Public Notice CRTC 2000-171, 14 December 2000, the Commission adopted a case-by-case approach in determining whether a proposed Category 2 service should be considered directly competitive with an existing pay, 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.
17. The Commission notes the applicant's proposal to limit its nature of service and more accurately reflect its intended programming by adding program categories 7(d) and 8(a), while deleting its request for categories 6(b) and 7(c). It further notes the applicant's proposal to limit the amount of 7(a) and 7(d) programming that it broadcasts. The Commission is of the view that such measures will define the service in a manner that is sufficiently specific to ensure that it does not directly compete with any analog pay or specialty or existing Category 1 service, including the more broadly based service offered by ATN.
18. Based on its examination of this application, the Commission is satisfied that it 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). Accordingly, the Commission **approves** the application by Ramanjeet S. Sivia, on behalf of a corporation to be incorporated, for a broadcasting licence to operate the national ethnic Category 2 specialty programming undertaking, Virasat TV.

19. The Commission imposes, as conditions of licence, the applicant's commitments to limit the amount of category 7(a) programming to not more than 12% of the broadcast week, and to limit the amount of category 7(d) programming to not more than 25% of the broadcast week. **Conditions of licence** to this effect are set out in the appendix to this decision. The Commission also expects the applicant to adhere to its commitment not to broadcast any films in the English language.
20. The licence will expire 31 August 2011, and will be subject to the conditions set out in Public Notice 2000-171-1, as well as to the **conditions of licence** set out in the appendix to this decision.

Issuance of the licence

21. A licence will be issued once the applicant has satisfied the Commission, with supporting documentation, that the following requirements have been met:
 - an eligible Canadian corporation has been incorporated in accordance with the application in all material respects;
 - 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 4 February 2008. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this 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 at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2005-44

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, as well as to the following conditions of licence:
2. The licensee shall provide a national ethnic Category 2 specialty programming undertaking that focuses on providing youth in the South Asian community, specifically those speaking Urdu, Hindi, and Punjabi, with youth-focused, up-to-date news coverage, music, entertainment, movies, lifestyle and issue-related programming, as well as knowledge in French.
3. The licensee shall broadcast 100% ethnic programming, of which not more than 30% of all programming broadcast during the broadcast week shall be in the Hindi language.
4. The programming must 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
 - 4 Religion
 - 5 (a) Formal education and pre-school
(b) Informal education/Recreation and leisure
 - 7 Drama and comedy
 - (a) Ongoing drama series
 - (d) Theatrical feature films aired on TV
 - (f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy
 - 8 (a) Music and dance other than music video programs or clips
(b) Music video clips
(c) Music video programs
 - 11 General entertainment and human interest
 - 13 Public service announcements

5. Not more than 12% of all programming broadcast during each broadcast week shall be drawn from category 7(a).
6. Not more than 25% of all programming broadcast during each broadcast week shall be drawn from category 7(d).

For the purposes of the conditions of this licence, *broadcast day* refers to the 24-hour period beginning at 6 a.m. each day.