



Broadcasting Decision CRTC 2004-465

Ottawa, 21 October 2004

Golden Tunes Productions Inc.
Across Canada

*Application 2002-0711-9
Public Hearing in the National Capital Region
9 August 2004*

Venus TV – Category 2 specialty service

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

The application

1. The Commission received an application by Golden Tunes Productions Inc. (Golden Tunes) for a broadcasting licence to operate an ethnic Category 2¹ specialty programming undertaking to be known as Venus TV.
2. The applicant proposed to offer a service that would be dedicated to all aspects of life, culture and related issues of the South Asian communities residing in Canada.

The interventions

3. The Commission received four interventions in connection with this application. Three were in support and one opposed the application. The opposing intervention was submitted by South Asian Television Canada Limited (SATV). SATV is the licensee of the national ethnic specialty television service ATN, which serves the South Asian community in Canada.
4. The intervener submitted that the concept for Venus TV is very similar to ATN and would not only compete with ATN, but would impede ATN's ability to prosper.
5. SATV noted that the audience targeted by Venus TV would be the same viewership served by ATN's current programming. It further submitted that ATN's programming already offers programming of interest to most of the South Asian communities in Canada and covers topics relevant to the various demographics and age groups within those communities.

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.

6. SATV was further of the view that the research conducted by Tormacon Limited for Venus TV confused the public with a question about ratings, as opposed to a question about the need for such a service. SATV further submitted that the research was invalid due to conflict of interest and lack of independent research opinion because the study was conducted by a company run by one of the partners in the proposed Venus TV channel.

The applicant's reply

7. In its response to SATV's concerns, Golden Tunes expressed the view that operating for a number of years does not grant SATV the sole right to broadcast to the South Asian community. Golden Tunes also noted that the survey shows that existing TV services, including ATN, are not covering all aspects of the South Asian communities. The applicant submitted that those survey results indicate that SATV has failed to promote and nurture the Canadian talent of South Asians. Golden Tunes stated that ATN's programming focuses on the promotion of concerts that SATV imports from India.
8. In response to SATV's concern about Venus TV being in conflict with its service, Golden Tunes 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. Golden Tunes also noted that, in *Revised procedures for processing applications for new digital Category 2 pay and specialty television services*, Broadcasting Public Notice CRTC 2004-24, 8 April 2004 (Public Notice 2004-24), the Commission indicated that there would be no predetermined limit on the number of Category 2 licences that might be issued. Golden Tunes indicated that SATV's objection on the basis of competition and viability is invalid. The applicant further stated that Venus TV would devote not less than 25% of the first broadcast year to the broadcast of Canadian programs.
9. The applicant also indicated its belief that healthy competition has always made the market stronger, and that Venus TV and ATN together will create a better marketplace for South Asian broadcasting in Canada.

The Commission's analysis and determination

10. In Public Notice 2000-6, 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.

11. 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.
12. In Public Notice 2004-24, the Commission indicated that it may deny Category 2 applications in the following circumstances:
 - where there is a well-supported intervention demonstrating that a service would be directly competitive with an existing service, and where the applicant has not persuaded the Commission to the contrary;
 - where an applicant, even in the absence of such an intervention, has not satisfied the Commission that its proposed service would not be directly competitive with any existing service; or
 - where an applicant has not demonstrated that it meets the ownership requirements.
13. In the present case, the Commission notes that the proposed service targets a very broad demographic, including the same audience as that currently served by ATN. In addition, the Commission considers that the applicant's proposed programming categories are similar to that found in the schedule of ATN. The Commission notes that Golden Tunes did not demonstrate that its proposed service would not be directly competitive with ATN, nor did it propose limits on certain types or amounts of programming in order to mitigate the similarities.
14. Based on the foregoing, the Commission concludes that the proposed Category 2 service would compete directly with the existing specialty television service ATN. Accordingly, the Commission **denies** the application by Golden Tunes Productions Inc. for a broadcasting licence to operate the Venus TV programming service.

Secretary General

This decision is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>