



Broadcasting Public Notice CRTC 2006-82

Ottawa, 30 June 2006

Addition of Horizon Channel to the lists of eligible satellite services for distribution on a digital basis

*The Commission **approves** a request to add Horizon Channel to the lists of eligible satellite services for distribution on a digital basis and amends the lists of eligible satellite services accordingly. The revised lists are available on the Commission's web site at www.crtc.gc.ca under "Industries at a Glance."*

Introduction

1. The Commission received a request dated 24 January 2006 from the Canadian Cable Telecommunications Association (CCTA) that Horizon Channel, a non-Canadian third-language service, be added to the lists of eligible satellite services for distribution on a digital basis (the digital lists). The CCTA described the service as follows:

Horizon Channel is a 24-hour general interest service from Hong Kong offering programming in both Mandarin and Cantonese at a ratio of approximately 1:3 (i.e., 25% Mandarin/75% Cantonese). Horizon Channel offers a wide range of programming including entertainment news, variety shows, drama series, news and public affairs, cultural and documentary programs. The service does not have any English subtitles or secondary audio program.

2. On 13 February 2006, Rogers Cable Communications Inc. (Rogers) advised that, with the dissolution of the CCTA announced on 10 February 2006, it would take over as the Canadian sponsor of Horizon Channel.
3. The Commission subsequently issued *Call for comments on the proposed addition of Horizon Channel to the lists of eligible satellite services for distribution on a digital basis*, Broadcasting Public Notice CRTC 2006-27, 6 March 2006.

Positions of parties

4. The Commission received one comment with respect to the addition of Horizon Channel to the digital lists. Fairchild Television Ltd. (Fairchild) is the licensee of Fairchild Television and Talentvision, two national ethnic specialty services licensed under the analog licensing framework. Fairchild Television offers programming predominantly in the Cantonese language, while Talentvision operates predominantly in the Mandarin language.

5. In its submission, Fairchild stated that, if the Commission should decide to add Horizon Channel to the digital lists, it should make three clear stipulations with respect to its distribution by broadcasting distribution undertakings (BDUs). Specifically, Fairchild requested that the Commission: (a) impose a requirement whereby BDU customers wishing to subscribe to Horizon Channel must first subscribe to Fairchild Television, while making it clear that such customers would continue to be able to subscribe to Fairchild Television on a stand-alone basis; (b) impose a similar buy-through requirement with respect to Talentvision should Horizon Channel raise the amount of Mandarin-language programming it airs to a level equal to or greater than 40%, and; (c) prohibit Horizon Channel from soliciting or airing Canadian advertising.

Sponsor's reply

6. In its reply, Rogers noted that there were no comments filed in opposition to its request for the addition of Horizon Channel to the digital lists, and submitted that this addition would be consistent with the goals and criteria established 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).
7. Rogers objected to the requirements that Fairchild had requested the Commission to impose on Horizon Channel. According to Rogers, the revised approach set out by the Commission in Public Notice 2004-96 contains suitable safeguards to address Fairchild's concerns. It also submitted that its request meets all the requirements contained in that approach. Further, Rogers argued that Fairchild would benefit from the Commission's revised approach by virtue of the requirement that customers subscribe to Fairchild Television in order to subscribe to Horizon Channel.
8. With regard to the ratio of Mandarin to Cantonese-language programming on Horizon Channel, Rogers stated that Fairchild's comments presuppose that Horizon Channel would change the language mix of its programming. While Rogers submitted that there is no indication that this change will occur, it noted that, under the Commission's revised approach, should the amount of Mandarin-language programming on Horizon Channel increase to the threshold of 40%, the same buy-through requirements described above as applying to Fairchild Television would come into force with respect to Talentvision.
9. As for the third requirement proposed by Fairchild, Rogers stated its understanding that Horizon Channel would not solicit advertising from Canadian advertisers.

Commission's analysis and determinations

10. In Public Notice 2004-96, the Commission stated that, going forward, requests to add non-Canadian third-language general interest services to the digital lists would generally be approved, subject, as appropriate, to new distribution and linkage rules described in

that notice. The Commission also specified the information that a Canadian sponsor would be obliged to file in order for the Commission to consider a request for the addition of non-Canadian third-language services to the digital lists.

11. The Commission has examined the material filed in support of the request to add Horizon Channel to the digital lists, and is satisfied that the service is a general interest, third-language service, with approximately 75% of its programming in Cantonese and 25% in Mandarin, as described by its sponsor. Thus, the service is one whose addition to the digital lists is appropriately considered by the Commission in accordance with the approach for such services set out in Public Notice 2004-96.
12. With regard to the first two requirements proposed by Fairchild, the Commission notes that, pursuant to the distribution and linkage rules put into place to implement the approach set out in Public Notice 2004-96, any non-Canadian general interest third-language service added to the digital lists after 16 December 2004, and that offers at least 40% of its programming in Cantonese, may only be offered by Class 1 and Class 2 licensees to subscribers that also subscribe to Fairchild Television. The Commission further notes that there is no inverse requirement, i.e., no requirement that a BDU customer subscribe to the non-Canadian service in order to subscribe to Fairchild Television.
13. The distribution and linkage rules also provide that any non-Canadian general interest third-language service added to the digital lists after 16 December 2004, and that offers at least 40% of its programming in Mandarin, may only be offered by Class 1 and Class 2 licensees to subscribers that also subscribe to Talentvision. Thus, if Horizon Channel were to increase the amount of Mandarin programming it offers to the 40% level or above, BDUs distributing the service would be obliged to require customers subscribing to Horizon Channel to also subscribe to Talentvision. Again, pursuant to the distribution and linkage rules, there would be no inverse requirement, i.e., no requirement that a BDU customer subscribe to the non-Canadian service in order to subscribe to Talentvision.
14. The Commission also notes that, in *Distribution of Spike TV by broadcasting distribution undertakings*, Broadcasting Public Notice CRTC 2005-9, 27 January 2005, the Commission stated that, “where a service undergoes such fundamental changes as occurred in this case, so that it is no longer the same service as was approved for distribution by the Commission, the distribution of that service similarly requires the approval of the Commission.” Thus, if Horizon Channel were to significantly change the ratio of Mandarin-to-Cantonese programming on its service, it would be open to parties to argue that the service had undergone a change so fundamental as to make it no longer the same service, and that the Commission’s approval was required for its continued distribution.

15. As for the concerns underlying the third requirement proposed by Fairchild in its comment, the Commission notes Rogers' statement in reply that it understands that Horizon Channel will not solicit Canadian advertising.
16. In light of all the above, the Commission concludes that Fairchild's suggested conditions for the addition of Horizon Channel to the digital lists are unnecessary, and **approves** the addition of Horizon Channel to the digital lists. The Commission amends the lists of eligible satellite services accordingly. The lists of eligible satellite services are available on the Commission's web site at www.crtc.gc.ca under "Industries at a Glance" and may be obtained in hard copy on request.
17. The Commission notes that the distribution of Horizon Channel 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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