



## Broadcasting Decision CRTC 2007-117

Ottawa, 23 April 2007

**Neeti P. Ray, on behalf of a corporation to be incorporated**

Mississauga, Ontario

**S. S. TV Inc.**

Brampton, Ontario

*Applications 2006-0989-4 and 2005-1584-3  
Public Hearing in the National Capital Region  
18 December 2006*

### **Ethnic radio programming undertakings in Mississauga and Brampton**

*In this decision, the Commission **approves** the application by Neeti P. Ray, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a commercial AM ethnic radio programming undertaking in Mississauga.*

*The Commission **denies** the application by S. S. TV Inc. for a broadcasting licence to operate a commercial AM ethnic radio programming undertaking in Brampton.*

### **Background**

1. On 29 December 2005, the Commission received an application by S. S. TV Inc. (S. S. TV) for a broadcasting licence to operate a commercial AM ethnic radio programming undertaking in Brampton. The applicant proposed to operate the station at 1,650 kHz (Class C) with a transmitter power of 1,000 watts, day and night. The application was announced in Broadcasting Notice of Public Hearing CRTC 2006-7, 13 July 2006, as part of the 11 September 2006 public hearing process.
2. On 4 August 2006, the Commission received an application by Neeti P. Ray, on behalf of a corporation to be incorporated (Ray), for a broadcasting licence to operate a commercial AM ethnic radio programming undertaking in Mississauga. The applicant also proposed to operate the new station at 1,650 kHz (Class C) with a transmitter power of 1,000 watts, day and night. The application was announced in Broadcasting Notice of Public Hearing CRTC 2006-11, 19 October 2006, as part of the 18 December 2006 public hearing process.
3. Given that the applicants proposed the use of the same frequency, and given the proximity of Mississauga to Brampton, the two applications were deemed technically mutually exclusive. The Commission was therefore of the view that it would be appropriate to consider the applications by S. S. TV and Ray in the context of the same

public hearing. To that end, the Commission withdrew the application by S. S. TV from the 11 September 2006 Public Hearing and re-scheduled it for the 18 December 2006 Public Hearing, to be heard along with the application by Ray. The decision was taken to treat both applications as non-appearing items.

4. In *The Issuance of Calls for Radio Applications*, Public Notice CRTC 1999-111, 8 July 1999 (Public Notice 1999-111), the Commission listed a number of exceptions to its general policy of issuing calls for competing radio applications. One of these exceptions pertains to low power and other proposals with very little commercial potential. The Commission notes that the ethnic services proposed by the applicants are of a specialized nature and have limited commercial potential, as compared with other Toronto area stations. Accordingly, the Commission considers that both the Ray and S. S. TV applications qualify for the above-noted exception set out by the Commission in Public Notice 1999-111. Accordingly, the Commission decided not to issue a call for other applications.

## **The applications**

### **Ray**

5. Ray is an experienced radio and television ethnic programming content provider and has experience in subsidiary communications multiplex operations (SCMOs). The applicant indicated that it would own 67% of the voting interest of the corporation to be incorporated and would exercise effective control over the new radio programming undertaking. The proposed licensee would be governed by the board of directors pursuant to a Shareholders' Agreement whereby board members would be nominated by Neeti P. Ray and Renu Ray.
6. Ray stated that all of the programming to be broadcast by the proposed AM station would be ethnic programming, and that 93.6% of the programming would be in third languages, that is, languages other than English, French or a language of the Aboriginal peoples of Canada. The applicant proposed to serve a minimum of nine ethnic groups in a minimum of six languages during each broadcast week. According to the applicant's sample programming schedule, the programming would target the Armenian, Bangladeshi, East-African Indian, East Indian, Gujarati, Pakistani, and Punjabi communities in various third languages, as well as the Guyanese and Trinidadian/Tobagonian communities in English. Ray proposed to broadcast 70 hours per week of programming in Hindustani; 20 hours per week of programming in Urdu; eight hours per week of programming in each of the Bangla (Bengali), Gujarati, Punjabi and English languages; and four hours per week of programming in Armenian.
7. Ray stated that a minimum of 98 hours of programming broadcast during each broadcast week would be devoted to local programming and that, normally, all programming would be local programming. The applicant stated that the commitment to 98 hours of local programming would allow for circumstances warranting the broadcast of non-local programming such as World Cup soccer coverage, international cricket matches or foreign election coverage.

8. The proposed station would offer 36 hours and 15 minutes of spoken word programming per broadcast week, of which eight hours and 45 minutes would be news programming (33% of which would be local news). In order to ensure compliance with *Policy regarding open-line programming*, Public Notice CRTC 1988-213, 23 December 1988 (Public Notice 1988-213), the applicant proposed to offer ongoing seminars and workshops reviewing issues such as abusive comment, balance and programming standards. In addition, the applicant indicated that a time delay mechanism would be implemented. Finally, Ray confirmed that it would adhere to the *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993 (the Religious Policy), as it relates in particular to balance and ethics.
9. Ray stated in its application that it would ensure that at least 10% of musical selections broadcast during ethnic broadcast periods would be Canadian selections as specified in section 2.2(4) of the *Radio Regulations, 1986* (the Regulations).
10. With respect to the development of Canadian talent, Ray indicated that it would contribute \$73,000 over seven broadcast years, to be allocated as follows:
  - \$3,000 per broadcast year, in the first, second and third years of operation, to the Canadian Association of Ethnic Broadcasters' Ethnic Music Catalogue;
  - \$6,000 per broadcast year, in the first, second and third years of operation, to a proposed Ethnic Broadcaster Scholarship Fund to be administered by Humber College; and
  - \$46,000 during the fourth, fifth, sixth and seventh years of operation, commencing at an annual contribution rate of \$10,000 per broadcast year and increasing incrementally by \$1,000 per broadcast year, to a proposed Ethnic Broadcaster Scholarship Fund to be administered by Humber College.

### **S. S. TV**

11. S. S. TV is a corporation controlled by Ravinder Singh Pannu, who, in addition to being authorized to operate a number of Category 2 digital specialty television services (of which one is presently launched), is licensed to operate a commercial ethnic digital radio programming undertaking in Toronto. Mr. Pannu also operates a South Asian focused SCMO in Toronto and has applied for a broadcasting licence to operate an AM radio programming undertaking in Montréal.
12. S. S. TV stated that all of the programming to be broadcast by the proposed AM station would be ethnic programming, and that 86.5% of the programming would be in third languages. The applicant proposed to serve a minimum of seven ethnic groups in a minimum of five languages during each broadcast week. According to the applicant's sample programming schedule, the programming would target the East Indian, Gujarati, Guyanese, Pakistani, Punjabi (Sikh), Trinidadian and Tobagonian communities in

various third languages and, in some cases, in English. The applicant proposed to broadcast 41 hours per week of programming in Urdu, 33 hours per week of programming in “Huplish”,<sup>1</sup> 17 hours per week of programming in English, 15 hours and 30 minutes of programming per week in Punjabi, 12 hours and 30 minutes per week of programming in Hindi, and seven hours per week of programming in Gujarati.

13. S. S. TV stated that a minimum of 94.5 hours of programming broadcast during each broadcast week would be devoted to local programming, and that approximately 49-70 hours of programming broadcast during each broadcast week would be brokered programming. In addition, the applicant stated that 17 hours of programming broadcast during each broadcast week would be devoted to religious programming from the Sikh, Hindu, Islamic and Christian faiths, some of which would be station-produced and some of which would be acquired from foreign sources. S. S. TV confirmed that it would adhere to the Religious Policy, as it relates in particular to balance and ethics.
14. The proposed station would offer 58 hours of spoken word programming per broadcast week, of which five hours and 40 minutes would be news programming (80% of which would be local news). In order to ensure compliance with Public Notice 1988-213, the applicant proposed a number of measures, including education of personnel, education of listeners regarding norms, manners and etiquette for participation, and the screening of callers.
15. S. S. TV stated in its application that it would ensure that at least 7% of musical selections broadcast during ethnic broadcast periods would be Canadian selections as specified in section 2.2(4) of the Regulations.
16. With respect to the development of Canadian talent, S. S. TV indicated that it would contribute \$328,000 over seven broadcast years, to be allocated as follows:
  - \$3,000 per broadcast year over seven years, for a total of \$21,000, to the Canadian Association of Ethnic Broadcasters’ Ethnic Music Catalogue;
  - \$4,000 per broadcast year in the first and second years of operation, and \$5,000 per broadcast year in the third, fourth, fifth, sixth and seventh years of operation, for a total of \$33,000, to support students studying broadcasting at the University of Toronto, to be selected by a three-member panel of station employees; and

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<sup>1</sup> S. S. TV defined “Huplish” as a blended language consisting of elements from Hindi, Urdu, Punjabi and English, and submitted that the term would become a household word once the new AM station goes to air. The applicant also noted that although “Huplish” is not an officially recognized language, it is not uncommon for youth from different ethnic communities to communicate between groups through the use of a mix of languages.

- \$23,000 in the first year of operation, \$33,000 in the second year of operation, \$42,000 per broadcast year in the third, fourth and fifth years of operation, and \$46,000 per broadcast year in the sixth and seventh years of operation, for a total of \$274,000, to promote poetry, writing and reading contests and to provide incentives to participate in these contests.

## **Interventions**

17. The Ray application received numerous interventions in support as well as several interventions in opposition. The S. S. TV application received numerous interventions in support, as well as a comment and several interventions in opposition. The interventions and the replies to the interventions for each of these applications are available at the Commission's Web site at <http://www.crtc.gc.ca> under "Public Proceedings".

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

18. In making its determinations, the Commission has focused on the following issues.

### **Ethnic broadcasting policy**

19. The Commission has considered the merits of the applications in light of the provisions of the Commission's *Ethnic broadcasting policy*, Public Notice CRTC 1999-117, 16 July 1999 (the Ethnic Policy). The Ethnic Policy includes a number of key provisions, several of which have been incorporated into the Regulations as minimum standards that must be met.

#### Levels of ethnic and third-language programming

20. Section 7(1) of the Regulations stipulates that an ethnic radio station shall devote not less than 60% of its broadcast week to ethnic programs. Section 7(2) of the Regulations requires that at least 50% of an ethnic radio station's broadcast week be devoted to third-language programs. Finally, the Ethnic Policy stipulates that an ethnic radio station shall devote at least 7% of musical selections aired each broadcast week during ethnic programming to Canadian selections.
21. Both Ray and S. S. TV proposed to devote all of their programming during each broadcast week to ethnic programs. In addition, the percentage of programming during each broadcast week that each applicant committed to devote to third-language programming exceeds the minimum requirements under the Regulations. However, the Commission questions the accuracy of the percentage of third-language programming proposed by S. S. TV. Given that one of the principal third languages proposed by S. S. TV, namely, "Huplish," is, as defined by the applicant, a blended language consisting of elements from Hindi, Urdu and Punjabi, as well as from English, it is unclear as to whether it will be anything more than a form of English containing elements

from these third languages. Finally, the Commission notes that Ray's commitment with respect to Canadian category 3 (Special Interest Music) music selections exceeds the minimum regulatory requirement of 7%. In this regard, S. S. TV committed to meet the minimum regulatory requirement.

#### Broad service requirement

22. Under the Ethnic Policy, ethnic stations are expected to serve a range of cultural groups in a variety of languages, since the scarcity of available frequencies may not permit the licensing of an over-the-air single-language service for each ethnic group in a given market. This approach also allows for the provision of service to smaller groups that would not otherwise be able to support a single-language service.
23. When dealing with applications for ethnic services, the Commission decides on the minimum number of distinct groups that a station must serve on the basis of the demographics of the community, the services already available, and the degree of support shown by local community organizations. The Commission also assesses the ability of ethnic stations to provide appropriate amounts of quality programming to ethnic groups, and the availability of ethnic programming from all stations serving a market.
24. Both applicants proposed to offer programming to a variety of ethnic communities in languages that are already served as well as in languages with little radio representation in the Brampton and Mississauga ethnic radio market. The Commission also notes Ray's proposal to offer programming to the Armenian community in its mother-tongue and that, until now, there has been no radio programming targeting the Armenian-speaking community in Mississauga.

#### Local reflection

25. The Ethnic Policy states that a primary responsibility of over-the-air ethnic radio stations should be to serve their local community. Accordingly, ethnic broadcasters should provide plans on how they will reflect local issues and concerns.
26. The Commission is satisfied with the commitments made by Ray and S. S. TV in regard to the number of hours per broadcast week that they would devote to the broadcast of local programming and spoken word programming, including local news programming.

#### Canadian talent development

27. The Commission notes that the contributions proposed by both applicants to Canadian talent development (CTD) exceed the minimum contribution required under Public Notice 1995-196. However, although S. S. TV proposed to contribute \$54,000 over seven years to the Canadian Association of Ethnic Broadcasters' Ethnic Music Catalogue and to students studying broadcasting at the University of Toronto, over 85% of its total proposed CTD contribution is earmarked for the promotion of various contests and the

provision of incentives to participate in these contests. In the Commission's view, such endeavours lack the precision and concreteness required to qualify as eligible contributions to the development of Canadian talent.

## Conclusion

28. The Commission is satisfied that Ray will be able to provide high-quality programming and that its application is consistent with the objectives of the Ethnic Policy. As such, approval of Ray's proposal would ensure the availability of more over-the-air radio programming in the proposed languages in the Mississauga area, as well as programming to cultural groups that receive minimal radio service or, in the case of the Armenian community, no radio service. Furthermore, it is the Commission's view that the contributions proposed by Ray to the development of Canadian talent are concrete. Accordingly, the Commission considers that the application by Ray would make effective use of the proposed frequency.
29. In light of the above, the Commission **approves** the application by Neeti P. Ray, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a commercial AM ethnic radio programming undertaking in Mississauga at 1,650 kHz (Class C) with a transmitter power of 1,000 watts for daytime and 680 watts for night-time operations.<sup>2</sup>
30. In regard to the application by S. S. TV, as noted above, the Commission questions the accuracy of the amount of third-language programming proposed by the applicant, given that one of the proposed principal third languages may simply be a form of English containing elements from different third languages. Furthermore, as noted above, the Commission considers that the majority of S. S. TV's proposed contributions to the development of Canadian talent lack the precision and concreteness required to qualify as eligible contributions. Accordingly, the Commission **denies** the competing application by S. S. TV Inc.
31. In *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (Public Notice 2006-158), the Commission set out a new approach to the development and promotion of Canadian artists that is expected to be implemented on 1 September 2007. In order to reflect a new emphasis on development initiatives that lead to the creation of audio content for broadcast using Canadian resources, the Commission will replace the expression "Canadian talent development" with "Canadian content development" (CCD). Each radio station holding a commercial radio licence will be required to make a basic annual CCD contribution based on its revenues in the previous broadcast year.

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<sup>2</sup> Subsequent to the filing of the application by Ray, the Department of Industry granted technical acceptability subject to the condition that the transmitter power would not exceed 680 watts at night.

32. The Commission notes that Ray has made commitments for CTD that will be imposed as conditions of licence. Amounts required under these conditions may be deducted from the amounts that will be required under the new basic CCD contribution.
33. The Commission reminds the applicant that all development initiatives that have not been allocated to specific parties by condition of licence should be allocated to the support, promotion, training and development of Canadian musical and spoken word talent, including journalists. Parties and initiatives eligible for CCD funding are identified in paragraph 108 of Public Notice 2006-158.
34. The licence for the new radio station will expire 31 August 2013 and will be subject to the **conditions** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition number 5, as well as to the **terms and conditions** set out in the appendix to this decision.
35. The Commission expects Ray to adhere to its commitments regarding the amount of local programming, spoken word programming and news programming to be broadcast. In regard to spoken word programming, the Commission expects Ray to adhere to its commitment to offer ongoing seminars and workshops reviewing issues such as abusive comment, balance and programming standards. In addition, the Commission notes the applicant's commitment to the implementation of a time delay mechanism. The Commission also expects the applicant to adhere to the Commission's guidelines on open-line programming as set out in Public Notice 1988-213.

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 2007-117

### Terms of licence

#### Issuance of the licence

The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.

Furthermore, the Commission will only issue the licence once the applicant:

- has satisfied the Commission, with supporting documentation, that an eligible Canadian corporation has been incorporated in accordance with the application in all material respects; and
- 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 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 23 April 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.

#### Conditions of licence

1. The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition number 5.
2. The licensee shall devote a minimum of 10% of all category 3 (Special Interest Music) music selections broadcast during ethnic broadcast periods to Canadian selections.
3. The licensee shall devote a minimum of 93.6% of the programming during each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.
4. The licensee shall broadcast, in each broadcast week, programming directed to a minimum of nine ethnic groups in a minimum of six languages.

5. The licensee shall contribute the following to the development of Canadian content:
  - \$3,000 per broadcast year to the Canadian Association of Ethnic Broadcasters' Ethnic Music Catalogue, in the first, second and third years of operation;
  - \$6,000 per broadcast year to a proposed Ethnic Broadcaster Scholarship Fund to be administered by Humber College, in the first, second and third years of operation; and
  - \$46,000 over the course of the fourth, fifth, sixth and seventh years of operation, commencing at an annual contribution rate of \$10,000 per broadcast year and increasing incrementally by \$1,000 per broadcast year, to a proposed Ethnic Broadcaster Scholarship Fund to be administered by Humber College.
  
6. Where the licensee broadcasts religious programming as defined in the *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.

## **Encouragements**

### **Employment equity**

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.