



## Broadcasting Decision CRTC 2008-235

Ottawa, 28 August 2008

**Westman Media Cooperative Ltd.**  
Brandon, Manitoba

*Application 2007-1623-5, received 19 November 2007*  
*Broadcasting Public Notice CRTC 2008-40*  
*9 May 2008*

### **Class 1 cable broadcasting distribution undertaking in Brandon – Licence renewal and amendment**

*The Commission **renews** the broadcasting licence for the Class 1 cable broadcasting distribution undertaking serving Brandon, Manitoba from 1 September 2008 to 31 August 2015. The Commission also **approves** the applicant's request to amend or delete certain **conditions of licence**.*

#### **Introduction**

1. The Commission received an application by Westman Media Cooperative Ltd. (Westman) to renew the broadcasting licence for its Class 1 cable broadcasting distribution undertaking (BDU) serving Brandon, Manitoba. The current licence expires 31 August 2008.
2. Westman also requested the amendment or the deletion of certain conditions of licence. Some of the changes proposed by the licensee would update references to sections of the *Broadcasting Distribution Regulations* (the Regulations) to reflect the currently applicable sections of the Regulations. Other changes would delete particular conditions of licence that are no longer applicable or required, update the terminology used in specific conditions of licence, reflect certain technical changes, or reflect changes in regard to programming sources. The specific details of the proposed amendments to the broadcasting licence for this undertaking are described in the licensee's application.
3. The Commission received an intervention offering general comments from the Canadian Association of Broadcasters (CAB). The licensee did not reply to the intervention. The intervention can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

## **Commission's analysis and determination**

4. After examining the application and the interventions, the Commission finds that the issues to be determined relate to the following:
  - the impact of the review of the policy framework for the Regulations on the licensee's application;
  - the amendments or deletion of certain conditions of licence; and
  - the distribution of distant Canadian signals and of a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and of the non-commercial PBS network (collectively, the U.S. 4+1 signals) and the suspension of non-simultaneous program deletion requirements.

### **Impact of the review of the policy framework for the Regulations on the licensee's application**

5. In its intervention, the CAB noted that the Commission is currently reviewing the framework for the Regulations and is expected shortly to issue revised policies and new broadcasting distribution regulations governing the distribution of both Canadian and non-Canadian broadcasting services. The CAB submitted that, in this context, it is essential that the Commission not take any action as part of Westman's licence renewal process that would have the effect of superseding the upcoming BDU framework determinations or exempting the licensee from the application of that new framework.
6. Specifically, the CAB noted that Westman has applied for various conditions of licence that would be in effect for at least the first five years of the proposed licence term and submitted that in making decisions on its licence renewal application and imposing new conditions of licence, the Commission should do so in a manner that will allow it to review and revise, as required, those conditions of licence that are inconsistent with the new BDU framework to be established by the Commission.
7. With respect to the CAB's intervention, in Broadcasting Public Notice 2003-48, the Commission stated that it would begin the process of renewing the licences for cable BDUs starting with those BDUs serving Atlantic Canada and concluding with those serving Western Canada. As of this date, the Commission has processed all cable licence renewal applications for the undertakings operating in the Maritimes, Quebec, and Ontario. This year, the Commission is processing cable licence renewal applications for the remainder of Canada.
8. Further, the Commission notes that any forthcoming changes to the Regulations should not have a significant impact on any of the relatively routine conditions of licence being considered in this decision.

9. The Commission has considered the concerns put forth by the CAB and has determined that it remains appropriate to proceed with its plan announced in Broadcasting Public Notice 2003-48.

#### **Amendment or deletion of conditions of licence**

10. The Commission considers that the licence amendments proposed by Westman, as described in its application, are appropriate and do not conflict with any of the Commission's regulations and existing policy provisions.

#### **Distribution of distant Canadian signals and a second set of U.S. 4+1 signals and suspension of non-simultaneous program deletion requirements**

11. In Broadcasting Decision 2002-310, the Commission approved a request by Westman to distribute on its Class 1 cable BDU serving Brandon, on a digital discretionary basis, a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and of the non-commercial PBS network (collectively, the U.S. 4+1 signals), as well as any of the distant Canadian television signals set out in the *List of Part 3 eligible satellite services*. This approval was subject to the provision that the licensee adhere to the requirements regarding non-simultaneous program deletion set out in section 43 of the Regulations. The Commission also noted in Broadcasting Decision 2002-310 that the above provision may be suspended upon its approval of an executed agreement between the licensee and broadcasters dealing with issues related to the protection of program rights arising in connection with the digital discretionary carriage of the above-noted signals.
12. In Broadcasting Decision 2006-692, the Commission announced that Canadian Cable Systems Alliance Inc. (CCSA), on behalf of Westman and various other licensees, had reached such an agreement with the CAB. As such, the requirement for non-simultaneous program deletion was suspended for Westman as well as for the other licensees.
13. The Commission reminds the licensee that in the event that the agreement between the CCSA and the CAB is terminated at any time, the requirement for non-simultaneous program deletion will no longer be suspended and the licensee will once again be required to perform program deletions as set out in section 43 of the Regulations. Should the agreement be terminated, the Commission is to be advised forthwith.

#### **Conclusion**

14. The Commission **renews** the broadcasting licence for the Class 1 cable BDU serving Brandon, Manitoba from 1 September 2008 to 31 August 2015. The Commission also **approves** the licensee's request to amend or delete certain conditions of licence, as specified in the licensee's application. The license shall be subject to the **conditions** set out herein as well as to the **conditions** set out in the appendix to this decision.

Secretary General

**Related documents**

- *Suspension of the provision set out in the decisions listed in the appendix to the present decision relating to the requirements for non-simultaneous program deletion*, Broadcasting Decision CRTC 2006-692, 21 December 2006
- *A regional approach to licensing cable distribution undertakings – Adoption of related amendments to the Broadcasting Distribution Regulations*, Broadcasting Public Notice CRTC 2003-48, 17 September 2003
- *Distribution of additional signals on a discretionary digital basis*, Broadcasting Decision CRTC 2002-310, 11 October 2002
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

*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 2008-235**

### **Terms, conditions of licence, and encouragement for the Class 1 cable broadcasting distribution undertaking serving Brandon, Manitoba**

#### **Terms**

The operation of this undertaking is regulated pursuant to the *Broadcasting Distribution Regulations* and all related policies.

#### **Conditions of licence**

1. The licensee is relieved from the requirement of section 25 of the Broadcasting Distribution Regulations to distribute the signal of the Manitoba Legislature Question Period on an unrestricted channel. Should the quality of the signal deteriorate significantly, the licensee shall immediately undertake any necessary corrective action, including the distribution of this service on another channel.
2. The licensee is authorized to distribute, at its option, CBWT (CBC) Winnipeg, a distant Canadian signal, as part of the basic service.
3. The licensee is authorized to distribute, at its option, CITY-TV (IND) Toronto, as part of a discretionary tier.
4. The licensee is authorized to distribute, at its option, WXYZ-TV (ABC) Detroit, Michigan, WCCO-TV (CBS), KARE-TV (NBC), KMSP-TV (FOX) Minneapolis, Minnesota, and WTVS (PBS) Detroit, Michigan, as part of the basic service.
5. The licensee is authorized to distribute, at its option, KGFE (PBS) Grand Forks, a second PBS network signal. Since the licensee is authorized to distribute two PBS signals, it may choose which of the two PBS signals it prefers to place on the basic service and which on the discretionary tier, but it may not distribute both signals as part of the basic service.
6. The licensee is authorized to distribute the following signals on a digital discretionary basis:
  - any of the distant Canadian television signals set out in the *List of Part 3 eligible satellite services*; and
  - a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network (hereafter referred to as the U.S. 4+1 signals).

The distribution on a discretionary basis on the licensee's digital service of a second set of U.S. 4+1 signals and distant Canadian signals is subject to the provision that, with respect to such signals, the licensee adhere to the requirements

regarding non-simultaneous program deletion set out in section 43 of the *Broadcasting Distribution Regulations*. The Commission may suspend the application of this provision with respect to such signals upon its approval of an executed agreement between the licensee and broadcasters. Such an agreement must deal with issues related to the protection of program rights arising in connection with the discretionary carriage of a second set of U.S. 4+1 signals and distant Canadian signals solely on the licensee's digital service.

The Commission reminds the licensee that the requirements set out in section 30 of the *Broadcasting Distribution Regulations* regarding simultaneous substitution apply also in the case of U.S. 4+1 signals and distant Canadian signals.

7. The licensee is authorized to insert, at its option, certain promotional material as a substitute for the "local availabilities" (i.e. non-Canadian advertising material) of non-Canadian satellite services. At least 75% of these local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel and for unpaid Canadian public service announcements. A maximum of 25% of the local availabilities may be made available for the promotion of discretionary programming services and packages, customer service information, channel realignments, cable FM service and additional cable outlets.

## **Encouragement**

### **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.