Broadcasting Notice of Consultation CRTC 2009-296

Ottawa, 21 May 2009

Notice of hearing

21 July 2009 Gatineau, Quebec

Deadline for submission of interventions/comments: 25 June 2009

The Commission will hold a hearing on **21 July 2009 at 9:00 a.m., at the Commission Headquarters, 1 Promenade du Portage, Gatineau, Quebec**. The Commission intends to consider the following applications, subject to interventions, without the appearance of the parties:

Item Applicant and Locality

1. Gear Up Urbanwear Inc.

Across Canada

Application No. 2009-0186-0

2. Gear Up Urbanwear Inc.

Across Canada

Application No. 2009-0258-7

3. Canwest Media Television Limited Partnership

Across Canada

Application No. 2009-0319-7

4. Afromedia Communications Incorporated

Across Canada

Application No. 2009-0352-7

5. New Tang Dynasty Television (Canada)

Across Canada

Application No. 2009-0496-3

6. Bonne Bay Cottage Hospital Heritage Corporation

Norris Point, Newfoundland and Labrador

Application No. 2009-0570-6

7. Radio coopérative de Coaticook, Coop de solidarité

Coaticook, Quebec

Application No. 2009-0424-4

8. Cogeco Cable Quebec General Partnership

Province of Quebec

Application No. 2009-0692-7

9. Cogeco Cable Canada LP

Province of Ontario

Application No. 2009-0695-1



10. **Radio 710 AM Inc.**

Niagara Falls, Ontario Application No. 2009-0031-7

11. MTT Networks Ltd.

Toronto and surrounding areas, Ontario Application No. 2009-0465-8

12. Dawson City Community Radio Society

Dawson City, Yukon Application No. 2009-0183-6

13. Canadian Broadcasting Corporation

Whitehorse, Watson Lake, Mayo, Elsa, Teslin, Beaver Creek, Swift River, Carmacks, Ross River, Atlin, Faro, Destruction Bay, Haines Junction and Dawson City, Yukon
Application No. 2009-0435-1

1. Across Canada

Application No. 2009-0186-0

Application by **Gear Up Urbanwear Inc.** for a broadcasting licence to operate a national, French-language, ethnic Category 2 specialty television programming undertaking to be known as Black Entertainment Television Canada.

The applicant states that the service will be provided for the Black community and that programming will be devoted to showcasing cultural aspects of this community and projecting a new, positive image of its culture through music, film, videos, the arts and live performances.

The applicant proposes to offer programming from the following categories: 1, 2(a), 2(b), 3, 4, 5(a), 5(b), 6(a), 6(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 8(b), 8(c), 9, 11, 13 and 14 as set out in item 6 of Schedule I of the *Specialty Services Regulations*, 1990.

Applicant's address:

Montréal, Quebec

Telephone: 514-961-0008

E-mail: hervearmand@hotmail.com

Examination of application:

2484 Fleury Street East Montréal, Quebec

2. Across Canada Application No. 2009-0258-7

Application by **Gear Up Urbanwear Inc.** for a broadcasting licence to operate a national, English-language, ethnic Category 2 specialty television programming undertaking to be known as Black Entertainment Television Canada.

The applicant states that the service will be provided for the Black community and that the programming will be devoted to showcasing cultural aspects of this community and projecting a new, positive image of its culture through music, film, videos, the arts and live performances.

The applicant proposes to offer programming from the following categories: 1, 2(a), 2(b), 3, 4, 5(a), 5(b), 6(a), 6(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 8(b), 8(c), 9, 11, 13 and 14 as set out in item 6 of Schedule I of the *Specialty Services Regulations*, 1990.

Applicant's address:

Montréal, Quebec

Telephone: 514-961-0008

E-mail: hervearmand@hotmail.com

Examination of application:

2484 Fleury Street East Montréal, Quebec

3. Across Canada Application No. 2009-0319-7

Application by Canwest Media, on its behalf as the limited partner and on behalf of Canwest Television GP Inc. as the general partner in a limited partnership that will carry on business as Canwest Television Limited Partnership for a broadcasting licence to operate a national, English-language Category 2 specialty programming undertaking to be known as Reality TV.

The applicant proposes a service devoted exclusively to reality-based programs including do-it-yourself programs. The service would also show ordinary people in extraordinary (but very real) situations.

Reality-based programming may include the presentation of contrived circumstances, dramatizations or recreations of real situations or events.

The applicant proposes to offer programming from the following categories: 1, 2(a), 2(b), 3, 4, 5(a), 5(b), 6(a), 6(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f) 7(g), 8(a), 8(b), 8(c), 9, 10, 11, 12, 13 and 14 as set out in item 6 of Schedule I of the *Specialty Services Regulations*, 1990.

The applicant also proposes the following conditions of licence:

- No more than 10% of all programming broadcast during the broadcast week shall be drawn from categories 2(b), 6(a), 6(b), 7(d), 7(e), and 8(b) and 8(c) combined;
- The licensee will not broadcast any live sports.

Applicant's address:

121 Bloor Street East Suite 1500 Toronto, Ontario M4W 3M5

Fax: 416-386-2779

E-mail: cbell@canwest.com

Examination of application:

At the applicant's address

4. Across Canada Application No. 2009-0352-7

Application by **Afromedia Communications Incorporated** for a broadcasting licence to operate a national, general interest, third-language, ethnic Category 2 specialty programming undertaking to be known as AMET-TV.

The applicant states that the proposed service is aimed at people of African or Afro-Caribbean backgrounds. The programming would be indigenous to Africa and would focus on movies, drama, plays and other theatrical presentations adapted for television showcasing the culture, art and lifestyle of Africans and people of African origin.

The applicant proposes to offer programming from the following categories: 4, 5(b), 7(a), 7(b), 7(c), 7(d), 7(g), 8(a), 8(b), 8(c), 9, 11, 12 and 13 as set out in item 6 of Schedule I of the *Specialty Services Regulations*, 1990.

The applicant proposes to broadcast 70% English-language programming and 20% French-language programming. Further, not less than 10% of its programming will be in the Yoruba, Swahili, Hausa, Twi, Fante and Arabic languages during the broadcast week.

The applicant proposes that no more than 15% of all programming broadcast during the broadcast week will be drawn from each of categories 7(d), 8(a), (b) and (c).

The applicant further proposes to offer 15% of its programming in high definition format.

Applicant's address:

2-58 Weather Vane Lane Brampton, Ontario L6X 4R5

Fax: 905-874-1444

E-mail: info@afromediacomm.ca

Examination of application:

Bello Lagoudis LLP Unit 15 – 1100 Central Parkway West Mississauga, Ontario

5. Across Canada Application No. 2009-0496-3

Application by **New Tang Dynasty Television** (**Canada**), a not-for-profit organization, for a broadcasting licence to operate a national, general interest, third-language, ethnic Category 2 specialty programming undertaking to be known as New Tang Dynasty Television Canada HD.

The applicant states that the proposed service is a first for Canadian Chinese television services and will offer programming devoted to news, analysis and commentary, documentaries, entertainment, drama and movies for Chinese-speaking audiences.

The applicant proposes to offer programming from the following categories: 1, 2(a), 2(b), 3, 4, 5(a), 5(b), 6(a), 6(b), 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8(a), 9, 11, 13 and 14 as set out in item 6 of Schedule I of the *Specialty Services Regulations*, 1990.

The applicant proposes to broadcast at least 90% of the programming during the broadcast week in languages other than English or French, that is to say 70% Mandarin, 10% Cantonese and 10% in other languages including Korean, Japanese, Tibetan, Vietnamese, Lao, Thai, Tagalog, Shanghainese and Taiwanese.

The applicant proposes that no more than 15% of all programming broadcast during the broadcast week will be drawn from each of categories 6(a), 7(d) and 8(a).

The applicant also proposes to offer 75% of its programming in high definition format.

The applicant requests that, of the 12 minutes of advertising material permitted during each clock hour, it be authorized to broadcast up to 6 minutes of local and regional advertising.

Applicant's address:

420 Consumers Road Toronto, Ontario M2J 1P8

Fax: 416-787-6665

E-mail: joe.wang@ntdtv.com

Examination of application:

420 Consumers Road Toronto, Ontario

6. Norris Point, Newfoundland and Labrador Application No. 2009-0570-6

Application by **Bonne Bay Cottage Hospital Heritage Corporation** for a broadcasting licence to operate a low-power, English-language, Type A, community FM radio programming undertaking in Norris Point.

The proposed station would operate at 95.9 MHz (channel 240LP) with an average effective radiated power (ERP) of 30 watts (maximum ERP of 40 watts with an effective height of antenna above average terrain of 14.5 metres).

The Commission may withdraw this application from the public hearing if it is not advised by the Department of Industry, at least twenty days prior to the hearing, that the application is technically acceptable.

Applicant's address:

P.O. Box 236 Norris Point, Newfoundland and Labrador A0K 3V0

Fax: 902-468-5661

E-mail: bbchhc@nf.aibn.com

Examination of application:

234 Main Street Norris Point, Newfoundland and Labrador

7. Coaticook, Quebec Application No. 2009-0424-4

Application by **Radio coopérative de Coaticook**, **Coop de solidarité** for a broadcasting licence to operate a French-language, Type B, community FM radio programming undertaking in Coaticook.

The proposed station would operate at 96.7 MHz (channel 244B1) with an average effective radiated power (ERP) of 1,250 watts (maximum ERP of 2,400 watts with an effective height of antenna above average terrain of 213.1 metres).

The Commission may withdraw this application from the public hearing if it is not advised by the Department of Industry, at least twenty days prior to the hearing, that the application is technically acceptable.

Applicant's address:

116 Wellington Street Coaticook, Quebec J1A 2H7

E-mail: direction@pavillondesarts.qc.ca

Examination of application:

At the applicant's address

8. Province of Quebec Application No. 2009-0692-7

Application by Cogeco Cable Quebec Inc. (Cogeco Quebec) and Cogeco Cable Canada Inc. (Cogeco Canada), partners in a general partnership carrying on business as Cogeco Cable Quebec General Partnership (CCQGP), to acquire from Cogeco Quebec, as part of a corporate reorganization, the assets of the Class 1, 2 and 3 broadcasting distribution undertakings (BDUs) operating in the province of Quebec.

The applicant is also requesting broadcasting licences to continue the operation of the undertakings under the same terms and conditions as those in effect under the current licences, upon surrender of the licences issued to Cogeco Quebec.

The Commission also notes that Cogeco Canada holds directly and indirectly more than 99% of CCQGP's partnership interest and that the said transaction does not affect the control of the above-mentioned undertakings, which will continue to be exercised by Cogeco Cable Inc., a corporation ultimately controlled by Gestion Audem inc.

The applicant is also submitting an application for a similar corporate reorganization affecting its Ontario BDUs in Application No. 2009-0695-1.

Applicant's address:

Cogeco Cable Quebec General Partnership 5 Place Ville-Marie Suite 1700 Montréal, Quebec H3B 0B3

Fax: 514-874-0776

E-mail: <u>Christian.jolivet@cogeco.com</u>

Examination of application:

At the applicant's address, and

1630 6th Street Suite 200 Trois-Rivières, Quebec

9. **Province of Ontario Application No. 2009-0695-1**

Application by Cogeco Cable Canada GP Inc. (the general partner) (Cogeco GP Inc.) and Cogeco Cable Canada Inc. (the limited partner) (Cogeco Canada), carrying on business as Cogeco Cable Canada LP (CCCLP), to acquire from Cogeco Canada, as part of a corporate reorganization, the assets of the Class 1, 3 and video-on-demand broadcasting distribution undertakings (BDUs) operating in the province of Ontario.

The applicant is also requesting broadcasting licences to continue the operation of the undertakings under the same terms and conditions as those in effect under the current licences, upon surrender of the licences issued to Cogeco Canada.

The Commission also notes that Cogeco Canada holds directly and indirectly more than 99% of CCCLP's interest and that the said transaction does not affect the control of the above-mentioned undertakings, which will continue to be exercised by Cogeco Cable Inc., a corporation ultimately controlled by Gestion Audem inc.

The applicant is also submitting an application for a similar corporate reorganization affecting its Quebec BDUs in Application No. 2009-0692-7.

Applicant's address:

Cogeco Cable Canada LP 5 Place Ville-Marie Suite 1700 Montréal, Quebec H3B 0B3

Fax: 514-874-0776

E-mail: <u>Christian.jolivet@cogeco.com</u>

Examination of application:

At the applicant's address, and

950 Syscon Road Burlington, Ontario L7R 4S6

10. **Niagara Falls, Ontario Application No. 2009-0031-7**

Application by **Radio 710 AM Inc.** to acquire the assets of the tourist radio programming undertaking CJRN Niagara Falls from CJRN 710 Inc.

The applicant is also requesting a new broadcasting licence to continue the operation of the undertaking under the same terms and conditions as those in effect under the current licence.

Radio 710 AM Inc. is wholly-owned and controlled by Niagara Media Group Inc., a corporation controlled by Northguard Capital Corp., which in turn is controlled by Mr. Andrew Ferri.

Following the proposed transaction, Radio 710 AM Inc. will be the new licensee of CJRN.

The proposed transaction is a corporate reorganization that will not affect the effective control of CJRN as it will continue to be exercised by Mr. Ferri.

Following an analysis of the station's logger tapes for the week of 1 to 7 March 2009, it appears to the Commission that the licensee may have failed to comply with the following conditions of licence set out in Broadcasting Decision 2006-5:

1) The licensee shall use this station solely to broadcast pre-recorded tourist information for the purpose of informing visitors to Niagara Falls.

2) The licensee shall not broadcast any commercial messages.

This application was first scheduled to be heard at a hearing on 30 March 2009 (Broadcasting Notice of Consultation 2009-36) but was withdrawn to be rescheduled at a later date.

The Commission will consider the interventions already accepted and placed on the public file for the 30 March 2009 hearing as well as other interventions received in the context of this hearing.

Applicant's address:

4668 St. Clair Avenue Niagara Falls, Ontario L2E 6X7

Fax: 905-356-0644

E-mail: ddancy@cogeco.ca

Examination of application:

At the applicant's address

11. Toronto and surrounding areas, Ontario Application No. 2009-0465-8

Application by **MTT Networks Ltd.** for a broadcasting licence to operate a Class 1 terrestrial broadcasting distribution undertaking to serve Toronto and surrounding areas.

The applicant also requests the following conditions of licence:

- 1) The licensee is authorized to distribute, at its option, WIVB-TV (CBS), WGRZ-TV (NBC), WKBW-TV (ABC), WUTV-TV (FOX) and WNED-TV (PBS) Buffalo, as part of the basic service.
- 2) The licensee is authorized to distribute, on a digital discretionary basis, the signal of WNYO-49 (Warner Brothers) Buffalo, NewYork.
- 3) 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 Regulations). The Commission may suspend the application of this provision, with respect to the signals to be distributed, 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 Regulations regarding simultaneous substitution apply also in the case of U.S. 4+1 signals and distant Canadian signals.

4) The licensee may, at its option, insert 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 used to provide subscribers with information regarding customer service and channel realignments, and for the promotion of discretionary programming services and packages, cable FM service, additional cable outlets and non-programming services, including Internet and telephone services.

Licensee's address:

11 Far Niente Street Richmond Hill, Ontario L4B 3T6

Fax: 705-435-3383

E-mail: frogers1@sympatico.ca

Examination of application:

4915 Bathurst Street Suite 209 Toronto, Ontario

12. Dawson City, Yukon Application No. 2009-0183-6

Application by **Dawson City Community Radio Society** for a broadcasting licence to operate a low-power, English-language, Type B, community FM radio programming undertaking in Dawson City.

The proposed station would operate at 106.9 MHz (channel 295LP) with a maximum effective radiated power of 50 watts (effective height of antenna above average terrain of 60 metres).

The applicant currently operates an English-language, developmental, community FM radio programming undertaking in Dawson City, whose licence expires 31 August 2009.

The Commission may withdraw this application from the public hearing if it is not advised by the Department of Industry, at least twenty days prior to the hearing, that the application is technically acceptable.

Licensee's address:

P.O. Box 689 990 Front Street Dawson City, Yukon Y0B 1G0

Fax: 867-993-6834

E-mail: cfytradio@hotmail.com

Examination of application:

At the licensee's address

13. Whitehorse, Watson Lake, Mayo, Elsa, Teslin, Beaver Creek, Swift River, Carmacks, Ross River, Atlin, Faro, Destruction Bay, Haines Junction and Dawson City, Yukon
Application No. 2009-0435-1

Application by the **Canadian Broadcasting Corporation** to convert the English-language radio station CFWH Whitehorse from the AM to the FM band.

The FM station will operate at 94.5 MHz (channel 233C1) with an average effective radiated power (ERP) of 3,300 watts (maximum ERP of 6,290 watts with an effective height of antenna above average terrain of 420.5 metres).

The applicant intends to operate the existing transmitters of CBDB Watson Lake, CBDC Mayo, CBDD Elsa, CBDK Teslin, CBDM Beaver Creek, CBDX Swift River, CBQF Carmacks, CBQJ Ross River, CBUA-FM Atlin, CBQK-FM Faro, CBDL-FM Destruction Bay, CBDF-FM Haines Junction and CBDN Dawson City as rebroadcasting stations of the proposed FM station.

The applicant is requesting permission to simulcast the programming of the proposed FM station on CFWH for a period of three months from the date of implementation of the FM station.

The applicant is also requesting, pursuant to sections 9(1)(e) and 24(2) of the *Broadcasting Act*, the revocation of the licence of CFWH effective at the end of the simulcast period.

The Commission may withdraw this application from the public hearing if it is not advised by the Department of Industry, at least twenty days prior to the hearing, that the application is technically acceptable.

This application requires the issuance of a new licence.

Applicant's address:

181 Queen Street Ottawa, Ontario K1P 1K9

Fax: 613-288-6257

E-mail: regulatoryaffairs@cbc.ca

Examination of application:

3103-3rd Avenue Whitehorse, Yukon

Public Participation

Deadline for Interventions/Comments

25 June 2009

The intervention must be received by the Commission and by the applicant on or before the above-mentioned date. The Commission cannot be held responsible for postal delays and will not notify a party whose intervention is received after the deadline date. The intervention will not be considered by the Commission and will not be part of the public file.

Interventions will be considered by the Commission and will form part of the public record of the proceeding without further notification to intervening parties, provided the procedure set out below has been followed. Parties will be contacted only if their submissions raise procedural questions.

Written interventions should be submitted to the Secretary General of the Commission in **only one** of the following formats:

by using the

[Broadcasting interventions/comments form]

or

by mail to CRTC, Ottawa, Ontario K1A 0N2

or

by fax at 819-994-0218

A true copy must be sent to the applicant, and proof that this has been done must accompany the intervention sent to the Commission.

The Commission advises those who file and serve by electronic mode to exercise caution when using e-mail for service of documents or notification, as it may be difficult to establish that service has occurred.

Parties must ensure, before initiating service through electronic mode, that they will be able to satisfy the Commission, upon request, that service of the notification was completed.

Where the intervention is filed by electronic means, the line ***End of document*** should be entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

Each paragraph of the document should be numbered.

Interventions should clearly identify the application referred to and indicate whether parties support or oppose the application, or, if they propose changes to it, include the facts and grounds for their proposal.

Important notice

Note that all information that parties provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.

The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

Please note that the information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of our website with the help of either our own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Examination of documents

An electronic version of the applications is available from the Commission's website by selecting the application number within this notice.

A list of all interventions/comments will also be available on the Commission's website. An electronic version of all interventions/comments submitted will be accessible from this list. To access the list, select "Lists of interventions/comments" under "Public Proceedings" from the Commission's website.

Documents are also available during normal office hours at the local address provided in this notice and at the Commission offices and documentation centres directly involved with these applications, or, upon request, within 2 working days, at any other Commission offices and documentation centres.

Location of Commission offices

Toll-free telephone: 1-877-249-2782 Toll-free TDD: 1-877-909-2782

Central Building Les Terrasses de la Chaudière 1 Promenade du Portage, Room 206 Gatineau, Quebec K1A 0N2

Tel.: 819-997-2429 Fax: 819-994-0218

Regional offices

Metropolitan Place 99 Wyse Road Suite 1410 Dartmouth, Nova Scotia B3A 4S5

Tel.: 902-426-7997 Fax: 902-426-2721

205 Viger Avenue West Suite 504 Montréal, Quebec H2Z 1G2 Tel.: 514-283-6607

55 St. Clair Avenue East Suite 624 Toronto, Ontario M4T 1M2 Tel.: 416-952-9096

Kensington Building 275 Portage Avenue Suite 1810 Winnipeg, Manitoba R3B 2B3

Tel.: 204-983-6306 TDD: 204-983-8274 Fax: 204-983-6317

Cornwall Professional Building 2220 – 12th Avenue, Room 260 Regina, Saskatchewan S4P 0M8

Tel.: 306-780-3422

10405 Jasper Avenue Suite 520 Edmonton, Alberta T5J 3N4

Tel.: 780-495-3224

530-580 Hornby Street Vancouver, British Columbia

V6C 3B6

Tel.: 604-666-2111 TDD: 604-666-0778 Fax: 604-666-8322

Secretary General

This document 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.