



## Broadcasting Decision CRTC 2012-540

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Route reference: 2012-212

Ottawa, 5 October 2012

### **Zazeen Inc.**

Toronto, Hamilton/Niagara, Oshawa, Kitchener, Ottawa, London and Windsor,  
and their surrounding areas, Ontario

*Application 2012-0129-3, received 2 February 2012*

*Public hearing in the National Capital Region*

*7 June 2012*

### **Terrestrial broadcasting distribution undertakings to serve various communities in Ontario**

*The Commission **approves** an application for a regional broadcasting licence to operate terrestrial broadcasting distribution undertakings to serve the above-noted communities in Ontario.*

#### **The application**

1. The Commission received an application by Zazeen Inc. (Zazeen) for a regional broadcasting licence to operate terrestrial broadcasting distribution undertakings (BDUs) to serve Toronto, Hamilton/Niagara, Oshawa, Kitchener, Ottawa, London and Windsor, and their surrounding areas, Ontario.
2. Zazeen is a corporation controlled by its board of directors.
3. For the undertakings serving Toronto, Hamilton/Niagara, Oshawa, Kitchener and Ottawa, and their surrounding areas, Zazeen requested authorization to:
  - distribute, at its option, as part of the basic service, the following U.S. 4+1 signals<sup>1</sup>: WIBV-TV (CBS), WGRZ-TV (NBC), WKBW-TV (ABC), WUTV-TV (FOX) and WNED-TV (PBS) Buffalo, New York, or, alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area and included on the *List of non-Canadian programming services authorized for distribution*, as amended from time to time and approved by the Commission; and

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<sup>1</sup> This refers to the set of signals that provide the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network.

- distribute, at its option, on a discretionary basis, WNLO-TV and WNYO-TV Buffalo, New York.
4. For undertakings serving London and Windsor, and their surrounding areas, Zazeen requested authorization to:
- distribute, at its option, as part of the basic service, the following U.S. 4+1 signals: WWJ-TV (CBS), WDIV-TV (NBC), WXYZ-TV (ABC) and WJBK-TV (FOX) Detroit, Michigan, and WQLN-TV (PBS) Erie, Pennsylvania, or, alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area and included on the *List of non-Canadian programming services authorized for distribution*, as amended from time to time and approved by the Commission; and
  - distribute, at its option, on a discretionary basis, WKBD-TV and WMYD-TV Detroit, Michigan.
5. Zazeen indicated that it would accept a condition of licence requiring it to provide one or more simple means of accessing described programming, whether in an open or embedded format. It further committed to meet the requirements regarding customer service and information set out in Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy).
6. The Commission received numerous joint supporting interventions from individuals.

### **Commission's analysis and decision**

7. The Commission notes that the authorizations to distribute U.S. 4+1 signals and to distribute U.S. independent networks, as requested by the applicant, are consistent with authorizations previously granted by the Commission in similar cases.

### **Conclusion**

8. In light of all of the above, the Commission **approves** the application by Zazeen Inc. for a regional broadcasting licence to operate terrestrial BDUs to serve Toronto, Hamilton/Niagara, Oshawa, Kitchener, Ottawa, London and Windsor, and their surrounding areas, Ontario. The licensee shall adhere to the **conditions** specified in the licence, and to the **conditions of licence** set out in the appendix to this decision. Further, the licence will be subject to the terms set out in the appendix to this decision.

### **Other matters**

#### **Designation of a head end**

9. Zazeen indicated that the physical location of the local head end of its Internet Protocol Television BDUs would be in Mississauga, Ontario. However, for the

purposes of regulatory symmetry with other terrestrial BDUs under the *Broadcasting Distribution Regulations* (the Regulations), the Commission requires Zazeeen to designate, as a local head end, a specific location in each of the licensed service areas in Ontario.<sup>2</sup> This information must be provided to the Commission no later than 30 days after the date of the decision.

#### **General authorizations for broadcasting distribution undertakings**

10. The Commission notes that under the conditions specified in its licence, a BDU is also authorized to distribute any service and to undertake any activity authorized in Broadcasting Regulatory Policy 2011-522, as amended from time to time, under the terms and conditions set out therein.

#### **Implementation of the Commission's determinations regarding accessibility of services**

11. In the Accessibility Policy, the Commission stated its intention to impose on BDUs a number of requirements and expectations pertaining to customer service, access to described video and accessibility of programming. **Conditions of licence**, requirements and expectations to improve accessibility are set out in the appendix to this decision.
12. Further, in Broadcasting Regulatory Policy 2010-622, the Commission stated that it intended to impose conditions of licence requiring licensed BDUs that operate community channels to caption 100% of original licensee-produced programming by the end of the licence term. The Commission also indicated that it expected licensed BDUs to ensure that 100% of original access programming<sup>3</sup> on the community channel is captioned by the end of the licence term. Finally, the Commission stated that it intended to impose conditions of licence requiring licensed BDUs that operate a community channel to provide audio description for all information programs and for news programming (that is, the voice-over of key textual, graphic design and still image elements, such as phone numbers, stock information or weather maps that are posted on the screen). **Conditions of licence** and expectations to this effect are set out in the appendix to this decision.
13. The Commission notes that it may impose further conditions of licence respecting accessibility matters five years into the licence term, if deemed appropriate.

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<sup>2</sup>Thus, the regulatory requirements for this applicant in areas distant from Mississauga should be consistent with the requirements for undertakings that have their local head ends situated in the same licensed service areas. Such a designation is contemplated by the definition of "local head end" set out in section 1 of the Regulations. For example, section 22 of the Regulations states: "Except as otherwise provided in a condition of its licence, which condition takes effect on or after September 1, 2011, a licensee shall not distribute a 4+1 package of programming services that originate outside the time zone in which the licensee's local head end is located unless the licensee also distributes to its subscribers the programming services of at least one television station from each English major ownership group that originate in the same time zone."

<sup>3</sup> The Regulations define "community access television programming" as "programming produced by an individual, group or community television corporation residing within the licensed area of a cable distribution undertaking."

**Mandatory distribution of 9(1)(h) services**

14. The Commission reminds the applicant that it will be required to distribute within its licensed service areas all services licensed for mandatory carriage as part of the basic service of distribution undertakings pursuant to section 9(1)(h) of the *Broadcasting Act*.

Secretary General

**Related documents**

- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2011-522, 24 August 2011
- *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009

*\*This decision is to be appended to the licence.*

## **Appendix to Broadcasting Decision CRTC 2012-540**

### **Terms, conditions of licence, requirements, expectations and encouragements for the regional broadcasting licence to operate terrestrial broadcasting distribution undertakings to serve Toronto, Hamilton/Niagara, Oshawa, Kitchener, Ottawa, London and Windsor, and their surrounding areas, Ontario**

#### **Terms**

The operation of these undertakings will be regulated pursuant to the *Broadcasting Distribution Regulations* and all related policies.

A licence will be issued once the applicant has:

- informed the Commission in writing that it is prepared to commence operations. The undertakings 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 **5 October 2014**. 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; and
- filed, at the same time it informs the Commission that it is ready to commence operations, a website address where its distribution grids are posted.

The licence will expire 31 August 2019.

#### **Conditions of licence applicable to all licensed service areas**

1. The licensee shall adhere to the conditions of licence set out in to *General conditions of licence for terrestrial (cable, digital subscriber line, multipoint distribution system) and direct-to-home (DTH) satellite broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2009-547, 31 August 2009, including the general conditions of licence for terrestrial broadcasting distribution undertakings set out in Appendix 1 to that regulatory policy, as amended from time to time and approved by the Commission.
2. The licensee shall provide one or more simple means of accessing described programming, whether in an open or embedded format, that requires little or no visual acuity.
3. The licensee shall caption 100% of original licensee-produced programming on the community channel by the end of the licence term.
4. The licensee shall provide audio description for all the key elements of information programs, including news programming on its community channel (that is, the voice-over of key textual, graphic design and still image elements,

such as phone numbers, stock information or weather maps that are posted on the screen).

### **Conditions of licence applicable to specific licensed service areas**

#### **Toronto, Hamilton/Niagara, Oshawa, Kitchener and Ottawa, and their surrounding areas**

5. The licensee is authorized to distribute, at its option, as part of the basic service, WIBV-TV (CBS), WGRZ-TV (NBC), WKBW-TV (ABC), WUTV-TV (FOX) and WNED-TV (PBS) Buffalo, New York, or, alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area and included on the *List of non-Canadian programming services authorized for distribution*, as amended from time to time and approved by the Commission.
6. The licensee is authorized to distribute, at its option, on a discretionary basis, WNLO-TV and WNYO-TV Buffalo, New York.

#### **London and Windsor, and their surrounding areas**

7. The licensee is authorized to distribute, at its option, as part of the basic service, WWJ-TV (CBS), WDIV-TV (NBC), WXYZ-TV (ABC), WJBK-TV (FOX) Detroit, Michigan, and WQLN-TV (PBS) Erie, Pennsylvania, or, alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area and included on the *List of non-Canadian programming services authorized for distribution*, as amended from time to time and approved by the Commission.
8. The licensee is authorized to distribute, at its option, on a discretionary basis, WKBD-TV and WMYD-TV Detroit, Michigan.

### **Requirements**

The licensee is required to designate, as a local head-end, a specific location in each of the licensed service areas and to provide this information to the Commission no later than 30 days after the date of the decision.

The licensee is required to promote information on all of its disability-specific services and products, in the accessible manner(s) of its choice.

The licensee is required to incorporate an easy-to-find home page link to the special needs/disability sections of its website, if its website includes such sections.

The licensee is required to make the information on its website accessible to the point of providing reasonable accommodation for persons with disabilities (examples of what the Commission considers to be reasonable accommodations are listed in paragraph 66 of

*Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009).

Where customer service functions on its website are not accessible, the licensee is required to ensure that persons with disabilities will not incur a charge or otherwise be disadvantaged if they use an alternate avenue of customer service.

The licensee is required to make accessible any customer service functions that are available solely over its website.

The licensee is required to make its general call centres accessible to the point of providing reasonable accommodation to persons with disabilities by:

- a) training customer service representatives in handling enquiries from persons with disabilities and familiarizing them with the service provider's products and services for persons with disabilities; and
- b) making its Interactive Voice Response systems accessible.

## **Expectations**

The Commission expects the licensee to ensure that subscribers are able to identify programming with described video in the electronic program guide.

The Commission expects the licensee to make information available in alternative formats to subscribers regarding, among other things, the programming and services offered and the channel line-up.

The Commission expects the licensee to ensure that 100% of original access programming aired on its community channel is captioned by the end of the licence term.

## **Encouragements**

The Commission encourages the licensee to ensure that its set-top boxes are accessible to subscribers with vision and fine motor skill disabilities.

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.