



Broadcasting Decision CRTC 2014-71

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Route reference: 2013-448

Ottawa, 18 February 2014

159272 Canada Inc.

Belleville, Hamilton, Kingston, Kitchener, London, Niagara Falls, Oshawa, Ottawa, Sarnia, Sault Ste. Marie, Sudbury, St. Catharines, Toronto (GTA) and Windsor, and surrounding areas, Ontario

Application 2013-0631-6, received 23 April 2013

Public hearing in the National Capital Region

5 November 2013

Terrestrial broadcasting distribution undertakings to serve various locations in Ontario

*The Commission **approves** an application for a regional broadcasting licence to operate terrestrial broadcasting distribution undertakings to serve various locations in Ontario.*

The application

1. 159272 Canada Inc. (159272 Canada) filed an application for a regional broadcasting licence to operate terrestrial broadcasting distribution undertakings (BDUs) to serve Belleville, Hamilton, Kingston, Kitchener, London, Niagara Falls, Oshawa, Ottawa, Sarnia, Sault Ste. Marie, Sudbury, St. Catharines, Toronto (GTA) and Windsor, and surrounding areas, Ontario.
2. 159272 Canada is a corporation wholly owned and controlled by Jean Marc Vandette.
3. 159272 Canada requested authorization to distribute, at its option, as part of the basic service, the signals of WBZ-TV (CBS), WHDH-TV (NBC), WCVB-TV (ABC), WFXT (FOX) and WGBH-TV (PBS) Boston, Massachusetts, 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.

Interventions and applicant's reply

4. The Commission received an intervention commenting on the application by the Ontario Ministry of Community Safety and Correctional Services (the Ministry) relating to the broadcast of public safety messages issued by federal and provincial authorities. It also received an intervention in comment by Rogers Communications

Partnership (Rogers). The public record for this application can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

5. In its intervention, Rogers outlined the following deficiencies with the proposed distribution grids:
 - the applicant did not propose to carry TVO even though this service must be distributed as part of the basic service;
 - the applicant proposed to carry the legislature channel from Quebec as part of the basic service rather than that from Ontario, when, under section 17(2)(b) of the *Broadcasting Distribution Regulations*, a BDU only has authority to distribute the legislature channel of the province in which the licensed area is located; and
 - the applicant proposed to offer, on the basic service, two programming services from the *List of non-Canadian programming services authorized for distribution*, i.e., France 24 (English) and France 24 (French), when a BDU may only distribute these services on a discretionary basis, except as otherwise provided under a condition of its licence. Rogers added that the applicant did not request such a condition of licence.
6. In reply to Rogers' intervention, 159272 Canada submitted that TVO was to have replaced L'Assemblée Nationale du Québec on all basic grids for Ontario, noting that this was a transcription error on its part and that it has since amended the grids accordingly. With respect to the non-Canadian services, it indicated that these two services were removed from the basic service and put on the distribution grids for all of its undertakings as discretionary services. The revised grids can be found at www.net-vu.ca.

Commission's analysis and decisions

7. As specified in its three-year plan, the Commission will be looking at measures to ensure the participation of Canadian broadcasters and telecommunications service providers in the National Public Alerting System (NPAS). Therefore, the Commission will not impose conditions of licence requiring the participation of broadcasters in the NPAS at this time. However, the Commission expects all licensees to voluntarily participate in the NPAS so that Canadians receive timely warnings of imminent perils.
8. The Commission notes that Rogers was correct in outlining the deficiencies in the applicant's distribution grids and finds the applicant's response appropriate. It also notes that the authorization to distribute the U.S. 4 + 1 signals on the basic service, as requested by the applicant, is consistent with authorizations previously granted by the Commission in similar cases. Accordingly, the Commission authorizes 159272 Canada to distribute the services identified in its application, at its option, as part of the basic service. A **condition of licence** to this effect is set out in the appendix to this decision.

9. In light of all of the above, the Commission **approves** the application by 159272 Canada Inc. for a regional broadcasting licence to operate terrestrial BDUs to serve Belleville, Hamilton, Kingston, Kitchener, London, Niagara Falls, Oshawa, Ottawa, Sarnia, Sault Ste. Marie, Sudbury, St. Catharines, Toronto (GTA) and Windsor, and surrounding areas, Ontario. The licensee shall adhere to the **conditions** set out therein, as well as to the terms and **conditions of licence** set out in the appendix to this decision.

Other matters

General authorizations for broadcasting distribution undertakings

10. The Commission notes that, under the conditions specified in a BDU's 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 (Broadcasting and Telecom Regulatory Policy 2009-430), the Commission stated its intention to impose on BDUs a number of requirements and expectations pertaining to customer service, access to described video¹ and accessibility of programming. The Commission notes the applicant's indication that it would adhere to a condition of licence requiring it to provide one or more simple means of accessing described programming and its commitment to meet the requirements regarding customer service and information set out in the Accessibility Policy. **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 programming² 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.

¹ "Video description" or "described video" refers to the narrative description of a program's key visual elements for the purpose of allowing persons who are blind or who have a visual impairment to understand what is occurring on the screen.

² The *Broadcasting Distribution 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."

13. The Commission notes that it may impose further conditions of licence respecting accessibility matters five years into the licence term, if deemed appropriate.

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 2014-71

Terms, conditions of licence, requirements, expectations and encouragements for the terrestrial broadcasting distribution undertakings serving Belleville, Hamilton, Kingston, Kitchener, London, Niagara Falls, Oshawa, Ottawa, Sarnia, Sault Ste. Marie, Sudbury, St. Catharines, Toronto (GTA) and Windsor, and 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 **18 February 2016**. 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 (or addresses) where its distribution grids that are in compliance with current regulations and applicable conditions of licence are posted for each of its licensed service areas.

The licence will expire 31 August 2020.

Conditions of licence

1. The licensee shall adhere to the conditions of licence set out in *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.
2. The licensee is authorized to distribute, at its option, as part of the basic service, the signals of WBZ-TV (CBS), WHDH-TV (NBC), WCVB-TV (ABC), WFXT (FOX) and WGBH-TV (PBS) Boston, Massachusetts, 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.

3. 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.
4. The licensee shall caption 100% of original licensee-produced programming on the community channel by the end of the licence term.
5. 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).

Requirements

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 centers 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.