



Broadcasting Decision CRTC 2012-492

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Route reference: 2012-126

Ottawa, 13 September

Colba.Net Telecom Inc.

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

Application 2011-1681-4, received 28 December 2011

Public Hearing in Toronto, Ontario

7 May 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 Colba.Net Telecom Inc. (Colba.Net) for a regional broadcasting licence to operate terrestrial broadcasting distribution undertakings (BDUs) to serve Hamilton/Niagara, Kingston, Kitchener, London, Oshawa, Ottawa, Peterborough, Stratford, Toronto and Windsor, and their surrounding areas, Ontario.
2. Colba.Net is a corporation controlled by Motionsphere Inc., which in turn is controlled by Mr. Joseph Bassili, as trustee for Fiducie Bassili.
3. Colba.Net requested authorization to distribute, at its option, as part of the basic service, the following U.S. 4+1 signals¹: WWJ-TV (CBS), WDIV-TV (NBC), WXYZ-TV (ABC), WTVS-TV (PBS) Detroit, Michigan, and WUHF-TV (FOX) Rochester, 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.
4. Colba.Net 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

¹ 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.

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).

5. The Commission received a general comment from 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."

Commission's analysis and decisions

6. After examining the application in light of applicable regulations and policies, the Commission considers that the issues it must address relate to the following:
 - the provision of channel lineups and service area maps for each of the locations that the applicant intends to serve; and
 - the applicant's request to distribute the specified U.S. 4+1 signals.

Channel lineups and service area maps

7. In its intervention, Rogers did not object to Colba.Net's proposal to operate a competitive BDU in the locations identified in the application. It noted, however, areas where Colba.Net's application did not reflect the same requirements that Rogers must respect as a licensed terrestrial BDU. Specifically, Rogers noted that Colba.Net did not provide channel lineups and service area maps for each of the locations that it intends to serve. For the locations where Colba.Net did provide a channel lineup, Rogers submitted that some of the local conventional stations that would be distributed as part of basic service were not those required by the *Broadcasting Distribution Regulations* (the Regulations). For example, in Stratford, Colba.Net proposed to distribute CFTO-TV Toronto (CTV) instead of CKCO-TV Kitchener (CTV). According to Rogers, CKCO-TV has a higher priority for distribution in that market.
8. In its reply, Colba.Net provided an Internet link to its service area maps and stated that it would revise its channel line-ups to meet all regulatory requirements, including those noted by Rogers. Colba.Net reiterated that it would comply with the Regulations for terrestrial BDUs and all applicable distribution rules.
9. The Commission is satisfied with Colba.Net's reply to Rogers' intervention and requires Colba.Net to ensure that all its channel line-ups meet all regulatory requirements.

Request to distribute the specified U.S. 4+1 signals

10. The Commission notes that the authorization to distribute U.S. 4+1 signals, as requested by the applicant, is consistent with authorizations previously granted by the Commission in similar cases.

Conclusion

11. In light of all of the above, the Commission **approves** the application by Colba.Net Telecom Inc. for a regional broadcasting licence to operate terrestrial broadcasting distribution undertakings to serve Hamilton/Niagara, Kingston, Kitchener, London, Oshawa, Ottawa, Peterborough, Stratford, Toronto 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

12. Colba.Net indicated that the physical location of the local head end of its Internet Protocol Television BDUs would be in Montréal, Quebec. However, for the purposes of regulatory symmetry with other terrestrial BDUs under the Regulations, the Commission requires Colba.Net to designate, as a local head end, a specific location in each of the licensed areas.² This information must be provided to the Commission no later than 30 days after the date of this decision.

General authorizations for broadcasting distribution undertakings

13. 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

14. 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.

15. Further, in Broadcasting Regulatory Policy 2010-622, the Commission stated that it intended to impose conditions of licence requiring licensed BDUs that operate

² Thus, the regulatory requirements for this applicant in areas distant from Montréal 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."

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 programming³ 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.

16. 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

17. 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.*

³ 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.”

Appendix to Broadcasting Decision CRTC 2012-492

Terms, conditions of licence, requirements, expectations and encouragements for the terrestrial broadcasting distribution undertakings serving Hamilton/Niagara, Kingston, Kitchener, London, Oshawa, Ottawa, Peterborough, Stratford, Toronto 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 **13 September 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.
- filed, at the same time it informs the Commission that it is ready to commence operations, a website address (or addresses) where its accurate distribution grids are posted for each of its licensed service areas.

The licence will expire 31 August 2019.

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, as amended from time to time and approved by the Commission.
2. The licensee is authorized to distribute, at its option, as part of the basic service, WWJ-TV (CBS), WDIV-TV (NBC), WXYZ-TV (ABC), WTVS-TV (PBS) Detroit, Michigan, and WUHF-TV (FOX) Rochester, 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.

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 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 this 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 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.