



## Broadcasting Decision CRTC 2010-820

PDF version

Route reference: 2010-497

Additional references: 2010-497-1, 2010-497-2

Ottawa, 5 November 2010

### **Shaw Cablesystems Limited**

Various locations in British Columbia, Alberta, Saskatchewan and Manitoba

### **Videon Cablesystems Inc.**

Edmonton, Alberta and Winnipeg, Manitoba

*The application numbers and locations are in the decision.*

*Public Hearing in Calgary, Alberta*

*20 September 2010*

## **Various Class 1 terrestrial broadcasting distribution undertakings in western Canada – Licence renewals and amendments**

*The Commission **renews** the licensees' broadcasting licences for their Class 1 terrestrial broadcasting distribution undertakings serving various locations in British Columbia, Alberta, Saskatchewan and Manitoba from 1 December 2010 to 31 August 2015. These short-term renewals will permit the Commission to review at an earlier date the licensees' compliance with the Broadcasting Distribution Regulations and their conditions of licence. Additional considerations of the hearing Panel on alternative ways of dealing with non-compliance are attached.*

### **Introduction**

1. The Commission received applications by Shaw Cablesystems Limited (Shaw) and Videon Cablesystems Inc. (Videon) (collectively, Shaw) to renew the broadcasting licences for their Class 1 terrestrial broadcasting distribution undertakings (BDUs) serving various locations in British Columbia, Alberta, Saskatchewan and Manitoba. The current licences expire 30 November 2010.<sup>1</sup>
2. As part of its applications, Shaw requested the deletion of the condition of licence imposed by the Commission at its last licence renewal requiring it to file monthly reports confirming that the sponsorship messages distributed on its community

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<sup>1</sup> The licences were renewed from 31 August to 30 November 2010 in *Administrative renewals*, Broadcasting Decision CRTC 2010-500, 22 July 2010.

channel in each of these systems comply with the provisions of section 27(1)(h) of the *Broadcasting Distribution Regulations* (the Regulations).<sup>2</sup>

3. Shaw stated that it would be prepared to accept a condition of licence requiring it to devote to community access programming not less than 35% of the programming broadcast on the community channel in each broadcast week. This level would go up to 50% according to requests, as currently required under the Regulations. The licensee further committed to holding an annual meeting in each system to solicit local and access programming ideas and a minimum of four training sessions per year in each system to increase the participation of volunteers involved with the community channel.
4. Shaw also requested that the BDUs serving the following locations be authorized to distribute a special programming service consisting of ethnic and multicultural programs: Chilliwack, Courtenay/Comox/Powell River, Duncan, Kamloops, Kelowna, Langford, Penticton, Prince George, Nanaimo and Victoria, British Columbia; Edmonton (both Shaw and Videon), Fort McMurray, Lethbridge and Red Deer, Alberta; Saskatoon, Saskatchewan; and Winnipeg, Manitoba (both Shaw and Videon). Shaw submitted that this would increase the amount of multicultural programming available to Canadians. It added that the languages and programs produced in each community would be determined largely by the communities themselves and that the service would be distributed on a digital basis.
5. Shaw further requested that the Commission extend the authorization granted to some of the BDUs to distribute, on a digital discretionary basis, a high definition (HD) version of the signals of KIRO-TV (CBS), KING-TV (NBC), KOMO-TV (ABC), KCPQ (FOX) and KCTS (PBS) Seattle, Washington, as an alternative to the set of Spokane U.S. 4+1 signals authorized for distribution as part of the basic service or, in other cases, as an alternative to the set of Spokane U.S. 4+1 signals distributed on a digital discretionary basis.<sup>3</sup> “U.S. 4+1 signals” refers to signals that provide the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial PBS network, while “alternative signals” refers to U.S. 4+1 signals distributed by Shaw in HD format that are not sourced from the same cities as are the U.S. 4+1 signals that it is authorized to distribute either on the basic service or on a digital discretionary basis. In the event that the Commission were not inclined to extend this authorization for the licence term, Shaw requested that the condition of licence allowing it to distribute the Seattle HD signals continue to apply until 31 December 2011, when all the systems in question would be able to receive the Spokane signals from its fibre backbone. Finally, Shaw also requested an amendment to a condition of licence for its Fort McMurray system in order that its authorization

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<sup>2</sup> See *Various cable broadcasting distribution undertakings in western Canada – Short-term licence renewals and licence amendments*, Broadcasting Decision CRTC 2008-234, 28 August 2008.

<sup>3</sup> See *Various cable broadcasting distribution undertakings across Canada – Licence amendments*, Broadcasting Decision CRTC 2009-488, 13 August 2009.

to distribute U.S. 4+1 signals on the basic service specify KHQ-TV (NBC) Spokane instead of WDIV (NBC) Detroit.

6. In Broadcasting Notice of Consultation 2010-497, the Commission noted that from September 2009 to February 2010, the licensee may have failed to make the applicable monthly payments to the Canada Media Fund (CMF) required under sections 29 and 29.2 of the Regulations. The Commission noted that the licensee had since met the shortfall in necessary contributions.
7. The Commission received interventions supporting, opposing and commenting on the applications. The interventions and the licensees' reply 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 determinations**

8. After examining the applications, the interventions, Shaw's reply to the interventions and the information provided at the public hearing, the Commission finds that the issues to be determined relate to:
  - the licensees' apparent non-compliance with the requirement to make monthly payments to the CMF;
  - the proposal to distribute a special programming service consisting of ethnic and multicultural programs;
  - the request to extend the authorization to distribute alternative sets of U.S. 4+1 signals;
  - the request to amend a condition of licence for its Fort McMurray system to distribute an NBC signal from Spokane rather than Detroit;
  - the requirements concerning the community channel, including those relating to sponsorship messages and access programming; and
  - the requirements relating to the accessibility of broadcasting services.

### **Non-compliance with the requirement to make monthly payments to the Canada Media Fund**

9. Section 29.2(2) of the Regulations stipulates that each contribution to Canadian programming, which includes the required contribution to the Canadian production fund, shall be made by the licensee in 12 equal monthly instalments during the broadcast year, with an instalment being made on or before the last day of each month. The instalment amount is calculated on the basis of the BDU's gross revenues derived from broadcasting activities in the previous broadcast year.
10. Shaw stated that it had been making monthly payments to the CMF for each of the affected systems. Shaw added that upon being advised by the Commission that its

monthly contributions to the CMF were being paid several months in arrears rather than on a current basis, as per the new monthly provisions introduced in the Regulations on 1 September 2009, it made an additional catch-up payment to the CMF within five days, i.e. on 19 March 2010. Shaw also stated that the CMF had not informed it that its monthly payments were in arrears.

11. Shaw further stated at the hearing that it was of the view that the Regulations permitted licensees to make final payments (overpayments and underpayments) by 31 December of the subsequent broadcast year and that as such, it was not in non-compliance.
12. The Commission agrees that section 29.3 of the Regulations allows for adjustments in contributions (overpayments and underpayments) by 31 December of the subsequent broadcast year. However, this provision does not allow licensees to make monthly payments in arrears. As stated in section 29.2(3) of the Regulations, if the licensee's gross revenues derived from broadcasting activities in the previous broadcast year are not known when an instalment is to be made, that instalment shall be equal to an amount that is 1/12 of the contribution to be made, calculated on the basis of an estimate of those gross broadcasting revenues. That amount, be it actual or an estimate, is payable on or before the last day of each applicable month.
13. Accordingly, if the actual contribution amount was not known, the payment made in September 2009 should have corresponded to an estimate of the amount owed for that month, the October 2009 payment to an estimate of the amount owed for that month and so on. Instead, the Commission notes that although Shaw made monthly payments to the CMF, the payments were not current, but instead made on a delayed basis, such that the payment made in September 2009 was for an amount owed for the month of May 2009, the October 2009 payment was for an amount owed for the month of June 2009 and so on. Based on the table provided by Shaw, the Commission notes that the applicable September 2009 payment was actually made in January 2010 and the required October 2009 instalment in February 2010. In March 2010, as a result of queries from the Commission, Shaw made two payments in that month: one for the month of March 2010 as per the Regulations and one catch-up payment that covered the period from November 2009 to February 2010.
14. The Commission acknowledges the CMF's intervention and confirmation that Shaw's monthly payments are now current. Nevertheless, although Shaw is now in compliance, the Commission determines that the licensee was in non-compliance with section 29.2 of the Regulations from September 2009 to February 2010.
15. Notwithstanding the non-compliance noted above, the Commission is aware of the need for a degree of regulatory certainty, given Shaw's recent acquisition of Canwest Global Communications Corp.'s conventional and specialty television broadcasting undertakings (Broadcasting Decision 2010-782). Therefore, although the Commission finds it appropriate to grant short-term renewals in light of Shaw's non-compliance, the Commission has determined that it will renew the licences for five-year terms.

16. The Commission reminds Shaw that it is its responsibility to operate its BDUs in accordance with the Regulations, including adhering to any subsequent amendments to the Regulations on the effective date of the requirement, and that it should not rely on either the Commission or another party to inform it that it is not respecting the current Regulations before taking appropriate action.

**Proposal to distribute a special programming service consisting of ethnic and multicultural programs**

17. As noted above, Shaw requested that certain BDUs (18 of the 24 systems being renewed) be authorized to distribute a special programming service consisting of ethnic and multicultural programs. Shaw proposed the following condition of licence:

The licensee is authorized to distribute, at its option, a special programming service consisting of ethnic and multicultural programs. The licensee shall not distribute as part of this special programming service any commercial message other than sponsorship credits combining no more than the logo, name, address, telephone number and type of activity or profession of the sponsor. The sponsorship credits may contain sound and/or visual images, whether moving or fixed. The sponsorship credits shall have no purpose other than to acknowledge, in a concise and direct manner, the sponsor's contribution and shall at no time constitute a detailed description or promotional device. The Commission reminds the licensee that no paid public service announcements may be distributed as part of this special programming service, other than those whose content conforms to the above-stated description of a permissible sponsorship credit.

18. The Commission notes that it has already granted this authorization for the other six licensed Shaw systems forming part of this decision, namely the systems in Calgary, Coquitlam, New Westminster, Vancouver (Richmond), Vancouver (North and West) and White Rock, as well as to other licensees. The Commission notes that Shaw's multicultural channels, branded as Shaw Multicultural Channel, consist of programming from a multitude of cultural groups that is amalgamated into one programming service by independent producers. Such programming is comprised of locally produced third-language programming or programming that is acquired by independent producers in third languages. These programs are self-funded by independent producers who sell certain forms of regulated advertising in those programs. Shaw stated that it does not purchase the programming. Its involvement with this service is limited to assisting independent producers in the scheduling of the programming to ensure equitable access across the various groups and to providing minimal administrative support. Shaw confirmed that programming on the Shaw Multicultural Channel does not count towards the meeting of the expenditure and exhibition requirements relating to access programming set out in the Community Television Policy (Broadcasting Regulatory Policy 2010-622, as corrected by Broadcasting Regulatory Policy 2010-622-1). The Commission has no concerns with the proposal and has accordingly set out a **condition of licence** to this effect in the appropriate appendix to this decision.

## **Request to extend the authorization to distribute alternate sets of U.S. 4+1 signals**

19. Currently, the majority of terrestrial BDUs are authorized to distribute a first set of U.S. 4+1 signals on the basic service and a second set of U.S. 4+1 signals on a digital discretionary basis. In Broadcasting Public Notice 2003-61, the Commission determined that subject to access requirements, the authorization to distribute a discretionary or optional service, Canadian or non-Canadian, would also include the “upgraded version” of that service, that is, a version with any amount of HD content. Thus, in the normal course, a BDU is authorized to distribute upgraded versions of those signals that it is authorized to distribute on the basic service or on a digital discretionary basis.
20. In Broadcasting Decision 2009-488, the Commission determined that an exception to its approach was warranted with respect to Shaw’s distribution of alternative U.S. 4+1 HD signals originating in Seattle rather than Spokane, from where the U.S. 4+1 signals it is currently authorized to distribute on the basic service or on a digital discretionary basis originate. Shaw had indicated that while the Spokane U.S. 4+1 signals had launched in HD, they were not “readily available” to Shaw. The Commission noted Shaw’s statement that it expected to expand its fibre network across western Canada by 2011, which would enable it to distribute Spokane HD signals. In its licence renewal applications, Shaw requested to maintain these conditions of licence on a going-forward basis or alternately until 31 December 2011.
21. Shaw confirmed during the hearing that there were no longer any technical obstacles to providing the Spokane HD signals. Shaw stated that its preference, however, was to continue distributing the Seattle HD signals on a going-forward basis. Shaw stated that should the Commission determine that it was not appropriate to permit the continued distribution of the Seattle HD signals as an alternative to the Spokane signals, it would probably replace the Spokane signals with those from Seattle.
22. The Commission notes that extending the current authorization would give some Shaw subscribers access to a total of three separate sets of U.S. 4+1 signals. For example, subscribers in Calgary who receive HD signals would have access to the standard and HD format signals from Detroit, the standard format signals from Spokane and the HD signals from Seattle. The Commission is concerned that allowing BDUs to distribute three sets of U.S. 4+1 signals increases the likelihood of Canadian broadcasters’ not having the ability to protect their program rights through the simultaneous substitution provisions of the Regulations. The Commission considers the protection of Canadian broadcaster program rights important to the continued health of the Canadian broadcasting system.
23. Accordingly, the Commission considers it appropriate that Shaw be authorized to distribute only upgraded versions of those U.S. 4+1 signals that it is authorized to distribute on the basic service (first set of U.S. 4+1 signals) and on a digital discretionary basis (second set of U.S. 4+1 signals).

24. In light of the above, the Commission **denies** the licensees' request to extend the authorization to distribute alternative signals for the licence term. The Commission considers it appropriate to give the licensees the option of providing the basic or digital discretionary service signals and the upgraded version of the service from either Seattle or Spokane. Accordingly, Shaw must advise the Commission within 30 days from the date of this decision as to which set of signals (Seattle or Spokane) it will distribute to the systems that were originally granted the above-noted authorizations. However, to allow sufficient time to implement the changes to each system, the Commission extends these authorizations until 31 December 2011. The Commission further directs the licensees to advise the Commission in writing when the signal change is done. Once the Commission has been advised, these conditions of licence will be considered deleted. In the meantime, the Commission notes that it has amended the condition of licence for the two Winnipeg systems to reflect the current origin of the PBS signal offered with the Spokane signals, namely Fargo (North Dakota).
25. The systems serving Calgary, Edmonton (Shaw and Videon), Fort McMurray, Lethbridge and Red Deer are currently authorized to distribute the Spokane set of U.S. 4+1 signals on the basic service. Should Shaw decide to distribute the Seattle signals instead, it is directed to inform the Commission. The Commission will amend its records for this condition of licence accordingly when Shaw informs the Commission that the change has been done. An amendment application will not be required in this instance.
26. Further, with respect to the BDUs serving Sault Ste. Marie and Thunder Bay that were granted the same authorization relating to alternative signals in Broadcasting Decision 2009-488 but do not form part of this renewal decision, given the Commission's decision above, the licensee must file an application within five days of the date of this decision should it wish to extend this authorization to 31 December 2011 for these systems to allow sufficient time to make the necessary changes to either all Spokane or all Seattle signals. If not, the authorization for these two systems will expire on 30 November 2010.

#### **Amendment to the licence for Fort McMurray**

27. The Commission notes that Shaw also requested an amendment to a condition of licence for its Fort McMurray system in order that its authorization to distribute the U.S. 4+1 signals on the basic service specify KHQ-TV (NBC) Spokane instead of WDIV (NBC) Detroit. The Commission is of the view that this amendment is appropriate to reflect a full set of U.S. 4+1 signals originating from Spokane, that is, from the same time zone as the system. Therefore, the Commission **approves** this request. A **condition of licence** to this effect is set out in the appropriate appendix to this decision.

## Community channel

### Provision of monthly reports

28. As noted above, Shaw requested the deletion of the condition of licence imposed by the Commission at its last licence renewal requiring it to file monthly reports confirming that the sponsorship messages distributed on its community channel comply with section 27(1)(h) of the Regulations. This section limits commercial messages on community channels to messages that mention no more than the name of a person, a description of the goods, services or activities that are being sold or promoted by the person and the person's address and telephone number. Shaw stated that the condition was no longer necessary since it was in compliance with this section and would continue to comply with the Regulations. Shaw indicated that filing monthly reports was a considerable administrative burden and was no longer required in the circumstances.
29. During the hearing, when asked to comment on a complaint received by the Commission that Shaw may be using in-program promotions, Shaw submitted that the invitation by the host of "Urban Rush" for viewers to view a pay-per-view Vancouver Canucks hockey game was done in error and that it would take steps to better inform the hosts, the various play-by-play commentators and people involved in the production of community television of the applicable restrictions.
30. The Commission expects Shaw to implement mechanisms to ensure that the advertising restrictions are respected. Based on the monthly reports regarding sponsorship messages and the small number of complaints on the issue received since the last licence renewal, the Commission is satisfied that Shaw is currently operating in compliance with section 27(1)(h) of the Regulations. Accordingly, to avoid unnecessary reporting requirements, the Commission **approves** the licensee's request to delete the condition of licence requiring it to file monthly reports relating to the airing of sponsorship messages on the community channel.

### Access programming

31. As noted above, Shaw indicated that it would be prepared to accept a condition of licence requiring it to devote to community access programming not less than 35% of the programming broadcast on the community channel in each broadcast week. Shaw also committed to holding an annual meeting in each system to solicit local and access programming ideas and a minimum of four training sessions per year in each system to increase the participation of volunteers involved with the community channel.
32. In its recent Community Television Policy, the Commission determined that BDUs are capable of ensuring that at least 50% of community channel programming is devoted to access programs. The Commission stated that it would implement the new 50% exhibition requirement through amendments to the Regulations that will require a minimum of 35% access programming in the 2011 broadcast year (1 September 2011 to 31 August 2012), 40% in the 2012 broadcast year (1 September 2012 to 31

August 2013), 45% in the 2013 broadcast year (1 September 2013 to 31 August 2014) and 50% beginning on 1 September 2014. In the interim, the existing exhibition requirement that 50% of community channel programming be access programming according to requests will remain in effect. Further, as set out in the Community Television Policy, the Commission will require licensees to file annual reports beginning in the 2010 broadcast year (1 September 2010 to 31 August 2011) that provide specific information regarding the broadcast of access programs during the broadcast day and in peak viewing hours. These reports, which the Commission will make public, will provide interested parties with a greater detail regarding the licensees' activities. Finally, the Commission determined that BDUs shall establish an industry working group to develop a code of "best practices" on access programming.

33. At the hearing, Shaw withdrew its requests for new conditions of licence and confirmed that it will adhere to the Community Television Policy and that it will participate in the industry working group to establish a code of "best practices" on access programming. Shaw also confirmed its willingness to accept a condition of licence requiring it to adhere to the code, once established. A **condition of licence** to that effect is set out in Appendix 1. The Commission notes that the Canadian Association of Community Television Users and Stations (CACTUS) voiced an interest in participating in the industry working group. The Commission further notes that the Community Television Policy states that the working group shall be comprised of various BDUs. Nevertheless, the Commission expects the BDUs forming part of the working group, which will include Shaw, to invite various interested parties such as CACTUS to participate in the elaboration of the code of "best practices" and, at a minimum, to solicit their views concerning the appropriate provisions to be included in such a code.
34. CACTUS also raised concerns regarding the availability and closure of studios for some of Shaw's community channels in certain locations. Shaw submitted at the hearing that it had not closed as many studios as suggested by CACTUS. Shaw further noted that it offered communities the use of its mobile studio facilities, which permits programming to be created within individual communities, including in communities where there may no longer be a fixed studio facility.
35. Though the use of mobile studio facilities is not ideal, where the size of a community does not make the establishment of a fixed studio facility viable, the Commission accepts the use of mobile studio facilities as a reasonable alternative to a fixed studio facility. In this regard, the Commission expects that in communities where community channels are offered and where no fixed studio facilities exist, mobile studios be readily available and be accessible within a mutually acceptable timeframe to all community members, together with the necessary training.
36. The Commission notes the improvement in Shaw's efforts with respect to training, use of volunteers and access programming for the community channel during the last licence term, as reflected in the information it provided as an undertaking. However, the Commission notes that not all licensed areas are noted as having demonstrated improvements in this regard. The Commission reminds Shaw that such efforts should

be directed to all its systems to ensure that members of any given community served by the licensees receive the same opportunities.

### **Accessibility of broadcasting services**

37. In Broadcasting and Telecom Regulatory Policy 2009-430 (the Accessibility Policy), the Commission stated its intention to impose on BDUs, at the time of their licence renewal, a number of requirements and expectations pertaining to customer service, access to described video and accessibility of programming. Further, in the Community Television Policy, 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 their next licence term. The Commission also indicated that it expects licensed BDUs to ensure that 100% of original access programming on the community channel is captioned by the end of the next 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).
38. Shaw stated 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. Shaw also committed to meeting the requirements regarding customer service and information set out in the Accessibility Policy.
39. With respect to closed captioning on the community channel, Shaw committed to providing 100% closed captioning of its original licensee-produced programming by the end of the first year of the new licence term. With respect to audio description, Shaw submitted during the hearing that providing audio description for programming on its community channel would be financially prohibitive. Shaw explained that in some cases its programming contains a large amount of visual information, such as local bulletin board services, community message-type services and weather services. Shaw stated that it expected that it would cost between \$1.5 and \$1.8 million per year to begin to provide audio description of the content on the community channel.
40. The Commission's Accessibility Policy requires that the key textual, graphic design and still-image elements of news and other information-based programs, such as phone numbers, stock information or weather maps, be referenced by the program host or through voice-over to make that information accessible to audiences with visual impairments. The intention of audio description is to enhance access to audiovisual information-oriented programs that are already somewhat accessible by virtue of the presence of a program host. The Commission does not expect programs consisting predominantly of alphanumeric content to be described in this manner, nor does it require that audio description be provided on a separate audio track.

41. The Commission notes that it indicated in the Accessibility Policy that solutions to the problems of the provision and quality of audio description do not require significant resources, but rather sensitivity on the part of program producers and hosts when referring to key on-screen information, such as phone numbers, weather data, sports scores and financial information. Measures to improve and increase the amount of audio description could include training staff to increase awareness, updating production manuals and policies and assigning responsibility for audio description to appropriate staff.
42. Shaw clarified in its response provided as an undertaking that the largest cost element associated with audio description relates to training on-air persons to provide audio descriptions of all relevant textual, graphic and visual information that appears as part of the information program. In that respect, Shaw revised its cost estimate for audio description to a total of \$250,000 for the 24 systems being renewed. Shaw further submitted that it is prepared to provide audio description throughout the licence term on the Shaw cable systems being considered as part of this licence renewal process and committed to provide the necessary training to Shaw TV hosts and access producers respecting the provision of audio description.
43. Accordingly, the Commission determines that it is appropriate to require Shaw, by **condition of licence**, to provide audio description for all key elements of information programs, including news programming. For the purposes of this condition, “audio description” refers to announcers reading aloud the key textual and graphic information that is displayed on screen during information programs. Shaw is further required, by **condition of licence**, to provide the necessary training to Shaw TV hosts and access producers respecting the provision of audio description.
44. The Commission notes Shaw’s commitment to close caption 100% of its original licensee-produced programming by the end of Year 1 of the new licence term. A **condition of licence** to this effect is included in Appendix 1 to this decision.
45. Additionally, consistent with the Accessibility Policy and as committed to by the licensee, Shaw is required to:
- promote information on all of its disability-specific services and products in the accessible manner(s) of its choice;
  - incorporate an easy-to-find home page link to the special needs/disability sections of its websites, if its websites include such sections;
  - make the information on its websites accessible to the point of providing a reasonable accommodation for persons with disabilities by 23 July 2012 (examples of what the Commission considers to be reasonable accommodations are listed in paragraph 66 of the Accessibility Policy);

- ensure that where customer service functions on its websites are not accessible, persons with disabilities will not incur a charge or otherwise be disadvantaged if they use an alternate avenue of customer service;
- make accessible any customer service functions that are available solely over Shaw's websites by 23 July 2012; and
- make its general call centers accessible to the point of providing a reasonable accommodation to persons with disabilities by:
  - a) training customer service representatives in handling enquiries from persons with disabilities and familiarizing them with its products and services for persons with disabilities;
  - b) making Interactive Voice Response systems accessible by 21 July 2011.

### **Other matters**

46. During the previous licence term, Shaw was authorized, by condition of licence, to receive, directly through its own facilities, at its option, any of the distant Canadian or U.S. signals that are otherwise required to be received from a licensed satellite relay distribution undertaking (SRDU). However, in light of the issuance of Broadcasting Regulatory Policy 2009-639, in which the Commission eliminated from the lists of eligible satellite services the requirement to receive certain services from a licensed SRDU, such a condition of licence is no longer necessary.

### **Conclusion**

47. In light of the above, the Commission **renews** the broadcasting licences held by Shaw Cablesystems Limited and Videon Cablesystems Inc. for their terrestrial BDUs listed below from 1 December 2010 to 31 August 2015. This short-term renewal will allow the Commission to review at an earlier date the licensees' compliance with the Commission's regulatory requirements and policy provisions. Subject to such compliance, the Commission may consider granting a one-year administrative renewal for the licences so that their expiry date coincides with that of the licences for programming services within the same ownership group.

48. The licence for each undertaking will be subject to the **conditions** set out therein, as well as to the terms and **conditions of licence** set out in the appropriate appendices to this decision.

### **Employment equity**

49. Because these licensees are subject to the *Employment Equity Act* and file reports concerning employment equity with the Department of Human Resources and Skills Development, their employment equity practices are not examined by the Commission.

## Shaw Cablesystems Limited

### Applications

*received 23 October 2009*

### Localities

#### British Columbia

2009-1418-6	Chilliwack
2009-1419-4	Coquitlam
2009-1420-2	Courtenay/Comox/Powell River
2009-1421-9	Duncan
2009-1424-3	Kamloops
2009-1425-1	Kelowna
2009-1427-7	Langford
2009-1429-3	Nanaimo
2009-1430-1	New Westminster
2009-1431-8	Penticton
2009-1432-6	Prince George
2009-1435-0	Vancouver (North and West)
2009-1436-8	Vancouver (Richmond)
2009-1437-6	Victoria
2009-1438-4	White Rock

#### Alberta

2009-1417-8	Calgary
2009-1422-7	Edmonton
2009-1423-5	Fort McMurray
2009-1428-5	Lethbridge
2009-1433-4	Red Deer

#### Saskatchewan

2009-1434-2	Saskatoon
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**Manitoba**

2009-1439-2

Winnipeg

**Videon Cablesystems Inc.**

**Applications**

*received 23 October 2009*

**Localities**

**Alberta**

2009-1441-7

Edmonton

**Manitoba**

2009-1440-0

Winnipeg

Secretary General

**Related documents**

- *Change in the effective control of Canwest Global Communications Corp.'s licensed broadcasting subsidiaries*, Broadcasting Decision CRTC 2010-782, 22 October 2010
- *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010, as corrected by *Community television policy – Correction*, Broadcasting Regulatory Policy CRTC 2010-622-1, 13 September 2010
- *Various terrestrial broadcasting distribution undertakings across Canada – Licence amendments*, Broadcasting Decision CRTC 2010-643, 31 August 2010
- Broadcasting Notice of Consultation CRTC 2010-497, 22 July 2010
- *Amendments to the requirements set out in the lists of eligible satellite services*, Broadcasting Regulatory Policy CRTC 2009-639, 9 October 2009
- *Various cable broadcasting distribution undertakings across Canada – Licence amendments*, Broadcasting Decision CRTC 2009-488, 13 August 2009
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *The regulatory framework for the distribution of digital television signals*, Broadcasting Public Notice CRTC 2003-61, 11 November 2003

*\*This decision and the appropriate appendices are to be attached to each licence.*

## Appendix 1 to Broadcasting Decision CRTC 2010-820

### Terms, conditions of licence, expectations and encouragement applicable to all terrestrial broadcasting distribution undertakings

#### Terms

The operation of these terrestrial broadcasting distribution undertakings is regulated pursuant to the *Broadcasting Distribution Regulations* and all related policies.

The licences will expire 31 August 2015.

#### Conditions of licence

1. 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.

2. The licensee is authorized to distribute, at its option, a special programming service consisting of ethnic and multicultural programs. The licensee shall not distribute as part of this special programming service any commercial message other than sponsorship credits combining no more than the logo, name, address, telephone number and type of activity or profession of the sponsor. The sponsorship credits may contain sound and/or visual images, whether moving or fixed. The sponsorship credits shall have no purpose other than to acknowledge,

- in a concise and direct manner, the sponsor's contribution and shall at no time constitute a detailed description or promotional device. The Commission reminds the licensee that no paid public service announcements may be distributed as part of this special programming service, other than those whose content conforms to the above-stated description of a permissible sponsorship credit.
3. The licensee shall provide audio description of key textual, graphic or visual images that form part of the main programming presented by the host of a news or information program on its community channel.
  4. The licensee shall provide the necessary training to hosts and access producers associated with its community channel concerning the provision of audio description.
  5. 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.
  6. The licensee shall caption 100% of original licensee-produced programming on the community channel by 31 August 2011.
  7. The licensee shall adhere to the code of "best practices" on access programming developed by the industry working group, once established and approved by the Commission, pursuant to *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010, as corrected by Broadcasting Regulatory Policy CRTC 2010-622-1, 13 September 2010.

## **Expectations**

The Commission expects that where community channels are being offered and where no fixed studio facilities exist, mobile studios be readily available and be accessible within a mutually acceptable timeframe to all community members, together with the necessary training.

The Commission expects the licensee to implement the necessary mechanisms to ensure that the advertising restrictions on the community channel are respected.

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 subscribers are able to identify programming with described video in the electronic program guide.

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

The Commission expects the licensee to participate in the establishment of an industry working group to establish a code of “best practices” on access programming, consistent with *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010, as corrected by Broadcasting Regulatory Policy CRTC 2010-622-1, 13 September 2010. The Commission expects the broadcasting distribution undertakings forming part of this working group to invite various interested parties such as the Canadian Association of Community Television Users and Stations to participate in the elaboration of such a code and, at a minimum, to solicit their views concerning the appropriate provisions to be included in the code.

### **Encouragement**

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

## **Appendix 2 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence applicable to various terrestrial broadcasting distribution undertakings**

#### **Condition of licence for the terrestrial broadcasting distribution undertakings serving Chilliwack, Coquitlam, Courtenay/Comox/Powell River, Duncan, Kamloops, Kelowna, Langford, Nanaimo, New Westminster, Penticton, Prince George, Vancouver (North and West), Vancouver (Richmond), Victoria and White Rock, British Columbia**

1. The licensee is authorized to distribute, at its option, KIRO-TV (CBS), KING-TV (NBC), KOMO-TV (ABC), KCPQ-TV (FOX) and KCTS-TV (PBS) Seattle, Washington, as part of the basic service.

#### **Conditions of licence for the terrestrial broadcasting distribution undertakings serving Calgary, Edmonton (Shaw Cablesystems Limited and Videon Cablesystems Inc.), Fort McMurray, Lethbridge and Red Deer, Alberta**

1. The licensee is authorized to distribute, at its option, as part of the basic service, a set of U.S. 4+1 signals originating either in Seattle or Spokane, consistent with the licensee's decision within the period of 30 days granted in Broadcasting Decision CRTC 2010-820. The signals within these sets of U.S. 4+1 signals are as follows:

Seattle:

the signals of KIRO-TV (CBS), KING-TV (NBC) and KOMO-TV (ABC), KCPQ (FOX) and KCTS (PBS) Seattle, Washington

Spokane:

the signals of KREM-TV (CBS), KHQ-TV (NBC), KXLY-TV (ABC), KAYU-TV (FOX) and KSPS-TV (PBS) Spokane, Washington.

2. Until 31 December 2011, the licensee is authorized to distribute, on a digital discretionary basis, the signals of KIRO-TV (CBS), KING-TV (NBC) and KOMO-TV (ABC), KCPQ (FOX) and KCTS (PBS) Seattle, Washington, as an alternative to the set of Spokane U.S. 4+1 signals authorized for distribution as part of the basic service, provided that:
  - the alternative signals are distributed only in high definition (HD) format; and
  - the licensee distributes a maximum of two sets of U.S. 4+1 signals in HD format.

**Conditions of licence for the terrestrial broadcasting distribution undertakings serving Winnipeg, Manitoba (Shaw Cablesystems Limited and Videon Cablesystems Inc.)**

1. The licensee is authorized to distribute, at its option, WCCO-TV (CBS) and KARE-TV (NBC) Minneapolis, Minnesota, WDAZ (ABC) Grand Forks, North Dakota, WUHF (FOX) Rochester, New York and KGFE (PBS) Grand Forks, North Dakota, as part of the basic service.
2. Until 31 December 2011, the licensee is authorized to distribute, on a digital discretionary basis, the signals of KIRO-TV (CBS), KING-TV (NBC), KOMO-TV (ABC), KCPQ-TV (FOX) and KCTS (PBS) Seattle, Washington, as an alternative to the set of U.S. 4 (Spokane) +1 (Fargo/PBS) signals distributed on a digital discretionary basis, provided that:
  - the alternative signals are distributed only in high definition (HD) format; and
  - the licensee distributes a maximum of two sets of U.S. 4+1 signals in HD format.

## Appendix 3 to Broadcasting Decision CRTC 2010-820

### Conditions of licence for the terrestrial broadcasting distribution undertaking serving Chilliwack, British Columbia

1. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CBUFT-6 Chilliwack on an unrestricted channel. Should the quality of this 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, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.
3. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KLSY-FM, KUBE-FM, KUOW-FM, KBTB-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KIRO-FM and KNDD-FM Seattle, and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.
4. The licensee is authorized to originate a video games service as a special programming service, offered on a discretionary basis, subject to the conditions listed in *Licence amendments concerning the distribution of a video games service*, Decision CRTC 95-591, 24 August 1995.

## **Appendix 4 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Coquitlam, British Columbia**

1. The licensee is relieved from the requirement of section 7 of the *Broadcasting Distribution Regulations* that it not alter or delete a programming service in the course of its distribution, except as provided below. The licensee may alter or curtail the programming services noted below for the purposes of sharing a channel in accordance with the licensee's agreements with the operators of these programming services. The following pair of programming services may share a channel:
  - British Columbia Legislative Assembly and Information Network.
2. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHEK-TV Victoria on an unrestricted channel. Should the quality of this signal deteriorate significantly, the licensee shall immediately undertake any necessary corrective action, including the distribution of this service on another channel.
3. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.

## **Appendix 5 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Courtenay/Comox/Powell River, British Columbia**

1. The licensee is authorized to distribute, at its option, CKVU-TV Vancouver as part of the basic service.
2. The licensee is authorized to distribute the audio signal of Country Music Television on an audio channel of the undertaking.
3. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.
4. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KUBE-FM, KUOW-FM, KJR-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KNDD-FM, KZOK-FM, KRWM-FM, KJAQ-FM and KQMV-FM Seattle, KCMS-FM (religious) Edmonds, and KBSG-FM and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.
5. The licensee is authorized to originate a video games service as a special programming service, offered on a discretionary basis, subject to the conditions listed in *Licence amendments concerning the distribution of a video games service*, Decision CRTC 95-591, 24 August 1995.

## **Appendix 6 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Duncan, British Columbia**

1. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHEK-TV Victoria on an unrestricted channel. Should the quality of this 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, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.
3. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KUBE-FM, KUOW-FM, KJR-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KNDD-FM, KZOK-FM, KRWM-FM, KJAQ-FM and KQMV-FM Seattle, KCMS-FM (religious) Edmonds, and KBSG-FM and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.

## **Appendix 7 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Kamloops, British Columbia**

1. The licensee is authorized to distribute CIVT-TV Vancouver as a distant signal. The licensee must ensure that the CIVT-TV signal it distributes contains the covered advertising. Should a local television programming undertaking wish to insert local advertising on the “covered” portions of the CIVT-TV signal, the Commission’s prior approval for the distributor to “alter or curtail” the signal would be required.
2. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma, Washington, as part of the basic service.
3. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KLSY-FM, KUBE-FM, KUOW-FM, KBTB-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KIRO-FM and KNDD-FM Seattle, and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.
4. The licensee is authorized to originate a video games service as a special programming service, offered on a discretionary basis, subject to the conditions listed in *Licence amendments concerning the distribution of a video games service*, Decision CRTC 95-591, 24 August 1995.

## **Appendix 8 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Kelowna, British Columbia**

1. The licensee is authorized to distribute CIVT-TV Vancouver as a distant signal. The licensee must ensure that the CIVT-TV signal it distributes contains the covered advertising. Should a local television programming undertaking wish to insert local advertising on the “covered” portions of the CIVT-TV signal, the Commission’s prior approval for the distributor to “alter or curtail” the signal would be required.
2. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma, Washington, as part of the basic service.

## Appendix 9 to Broadcasting Decision CRTC 2010-820

### Conditions of licence for the terrestrial broadcasting distribution undertaking serving Langford, British Columbia

1. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHEK-TV Victoria, and CBUT, CHAN-TV and CBUF-FM Vancouver, on unrestricted channels. Should the quality of these signals deteriorate significantly, the licensee shall immediately undertake any necessary corrective action, including the distribution of these services on other channels.
2. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.
3. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KLSY-FM, KUBE-FM, KUOW-FM, KJR-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KNDD-FM, KJAQ-FM, KKWF-FM, KZOK-FM, KBKS-FM and KRWM-FM Seattle, and KBSG-FM and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.
4. The licensee is authorized to distribute, at its option, the audio programming service of Country Music Television, on an audio channel of the undertaking.

## Appendix 10 to Broadcasting Decision CRTC 2010-820

### Conditions of licence for the terrestrial broadcasting distribution undertaking serving Nanaimo, British Columbia

1. The licensee is relieved from the requirement of section 7 of the *Broadcasting Distribution Regulations* that it not alter or delete a programming service in the course of its distribution, except as follows: The licensee may alter the signal of The Sports Network (TSN) for the purpose of broadcasting certain commercials or public service announcements.
2. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHEK-TV Victoria on an unrestricted channel. Should the quality of this signal deteriorate significantly, the licensee shall immediately undertake any necessary corrective action, including the distribution of this service on another channel.
3. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.
4. The licensee is authorized to alter the signals of CHEK-TV Victoria, and CHAN-TV, CKVU-TV and CBUT Vancouver, as well as the signals of KIRO-TV, KOMO-TV and KING-TV Seattle, KVOS-TV Bellingham and KSTW-TV Tacoma, Washington, to permit substitution of certain commercials or public service announcements. The substitution is part of a research project initiated by PEAC Media Research Inc., Shaw Cablesystems Limited and local broadcasters for the purpose of conducting market research on advertising effectiveness.
5. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KUBE-FM, KUOW-FM, KJR-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KNDD-FM, KZOK-FM, KRWM-FM, KJAQ-FM and KQMV-FM Seattle, KCMS-FM (religious) Edmonds, and KBSG-FM and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.

## Appendix 11 to Broadcasting Decision CRTC 2010-820

### Conditions of licence for the terrestrial broadcasting distribution undertaking serving New Westminster, British Columbia

1. The licensee is relieved from the requirement of section 7 of the *Broadcasting Distribution Regulations* that it not alter or delete a programming service in the course of its distribution, except as provided below. The licensee may alter or curtail the programming services noted below for the purposes of sharing a channel in accordance with the licensee's agreements with the operators of these programming services. The following pair of programming services may share a channel:
  - British Columbia Legislative Assembly and Information Network.
2. The licensee is relieved from the requirement of section 17 of the *Broadcasting Distribution Regulations* that it distribute CFEG-TV Abbotsford.
3. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHEK-TV Victoria on an unrestricted channel. Should the quality of this signal deteriorate significantly, the licensee shall immediately undertake any necessary corrective action, including the distribution of this service on another channel.
4. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.
5. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KLSY-FM, KUBE-FM, KUOW-FM, KJR-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KQBZ-FM and KNDD-FM Seattle, and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.

## **Appendix 12 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Penticton, British Columbia**

1. The licensee is authorized to distribute CIVT-TV Vancouver as a distant signal.
2. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma, Washington, as part of the basic service.
3. The licensee is authorized to distribute, at its option, the audio programming service of KMBI-FM (religious) Spokane, Washington, on an audio channel of the undertaking.

## **Appendix 13 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Prince George, British Columbia**

1. The licensee is authorized to distribute, at its option, CITV-TV Edmonton as part of the basic service.
2. The licensee is authorized to distribute CIVT-TV Vancouver as a distant signal. The licensee must ensure that the CIVT-TV signal it distributes contains the covered advertising. Should a local television programming undertaking wish to insert local advertising on the “covered” portions of the CIVT-TV signal, the Commission’s prior approval for the distributor to “alter or curtail” the signal would be required.

## **Appendix 14 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertakings serving Vancouver (North and West) and Vancouver (Richmond), British Columbia**

1. The licensee is relieved from the requirement of section 7 of the *Broadcasting Distribution Regulations* that it not alter or delete a programming service in the course of its distribution, except as provided below. The licensee may alter or curtail the programming services noted below for the purposes of sharing a channel in accordance with the licensee's agreements with the operators of these programming services. The following pair of programming services may share a channel:
  - British Columbia Legislative Assembly and Information Network.
2. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHEK-TV Victoria on an unrestricted channel. Should the quality of this signal deteriorate significantly, the licensee shall immediately undertake any necessary corrective action, including the distribution of this service on another channel.
3. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.
4. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KLSY-FM, KUBE-FM, KUOW-FM, KJR-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KQBZ-FM and KNDD-FM Seattle and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.

## **Appendix 15 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Victoria, British Columbia**

1. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHEK-TV Victoria on an unrestricted channel. Should the quality of this 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, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.
3. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KLSY-FM, KUBE-FM, KUOW-FM, KJR-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KNDD-FM, KJAQ-FM, KKWF-FM, KZOK-FM, KBKS-FM and KRWM-FM Seattle, and KBSG-FM and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.

## **Appendix 16 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving White Rock, British Columbia**

1. The licensee is relieved from the requirement of section 7 of the *Broadcasting Distribution Regulations* that it not alter or delete a programming service in the course of its distribution, except as provided below. The licensee may alter or curtail the programming services noted below for the purposes of sharing a channel in accordance with the licensee's agreements with the operators of these programming services. The following pair of programming services may share a channel:
  - British Columbia Legislative Assembly and Information Network.
2. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHEK-TV Victoria and CFRO-FM Vancouver, on unrestricted channels. Should the quality of these signals deteriorate significantly, the licensee shall immediately undertake any necessary corrective action, including the distribution of these services on other channels.
3. The licensee is authorized to distribute, at its option, KSTW-TV (UPN) Tacoma and KVOS-TV (IND) Bellingham, Washington, as part of the basic service.
4. The licensee is authorized to distribute, at its option, the audio programming services of KMPS-FM, KLSY-FM, KUBE-FM, KUOW-FM, KJR-FM, KISW-FM, KING-FM, KWJZ-FM, KPLZ-FM, KQBZ-FM and KNDD-FM Seattle, and KPLU-FM Tacoma, Washington, on audio channels of the undertaking.

## **Appendix 17 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Calgary, Alberta**

1. The licensee is authorized to distribute, at its option, and without advertising material, special programming services consisting of children's programming, the City of Calgary Information Guide, and religious programs.
2. The licensee is relieved from the requirement of section 17 of the *Broadcasting Distribution Regulations* that it distribute the priority signal CITV-TV-1 Red Deer as part of the basic service.
3. The licensee shall, as an exception to section 17 of the *Broadcasting Distribution Regulations*, distribute CKCS-TV Calgary as part of the basic service on channel 51.
4. The licensee is authorized to distribute, at its option, the audio programming services of KPBX-FM, KMBI-FM (religious), KXLY-FM, KISC-FM, KDRK-FM, KAEP-FM and KZZU-FM Spokane, Washington, on audio channels of the undertaking.

## **Appendix 18 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Edmonton, Alberta (Shaw Cablesystems Limited)**

1. The licensee shall, as an exception to section 17 of the *Broadcasting Distribution Regulations*, distribute CKES-TV Edmonton as part of the basic service on channel 51.
2. The licensee is authorized to distribute, at its option, the audio programming services of KMBI-FM (religious), KXLY-FM, KISC-FM, KDRK-FM, KEZE-FM, KZZU-FM and KPBX-FM Spokane, Washington on audio channels of the undertaking.

## **Appendix 19 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Fort McMurray, Alberta**

1. The licensee is authorized to distribute, on a discretionary basis, CJON-TV (CTV) St. John's.
2. The licensee is authorized to distribute, on a discretionary basis, CKEM-TV (IND) Edmonton.
3. The licensee is authorized to distribute, at its option, the audio programming services of KMBI-FM (religious), KXLY-FM, KISC-FM, KDRK-FM, KEZE-FM, KZZU-FM and KPBX-FM Spokane, Washington, on audio channels of the undertaking.

## **Appendix 20 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Lethbridge, Alberta**

1. The licensee is authorized to distribute, at its option, the audio programming services of KZUU-FM, KXLY-FM, KAEP-FM, KDRK-FM and KMBI-FM (religious) Spokane, Washington, on audio channels of the undertaking.
2. The licensee is authorized to originate a video games service as a special programming service, offered on a discretionary basis, subject to the conditions listed in *Licence amendments concerning the distribution of a video games service*, Decision CRTC 95-591, 24 August 1995.

## **Appendix 21 to Broadcasting Decision CRTC 2010-820**

### **Condition of licence for the terrestrial broadcasting distribution undertaking serving Red Deer, Alberta**

1. The licensee is authorized to distribute, at its option, the audio programming services of KMBI-FM (religious), KXLY-FM, KISC-FM, KDRK-FM, KEZE-FM, KZZU-FM and KPBX-FM Spokane, Washington, on audio channels of the undertaking.

## **Appendix 22 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Saskatoon, Saskatchewan**

1. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute the programming service of the Saskatchewan Communications Network Corporation on an unrestricted channel. Should the quality of this 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, WWJ-TV (CBS), WDIV (NBC) and WXYZ-TV (ABC) Detroit, Michigan, WUHF (FOX) Rochester, New York and WTVS (PBS) Detroit, Michigan, as part of the basic service.
3. Until 31 December 2011, the licensee is authorized to distribute, on a digital discretionary basis, the signals of KIRO-TV (CBS), KING-TV (NBC), KOMO-TV (ABC), KCPQ-TV (FOX) and KCTS (PBS) Seattle, Washington, as an alternative to the set of Spokane U.S. 4+1 signals distributed on a digital discretionary basis, provided that:
  - the alternative signals are distributed only in high definition (HD) format; and
  - the licensee distributes a maximum of two sets of U.S. 4+1 signals in HD format.

## **Appendix 23 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Winnipeg, Manitoba (Shaw Cablesystems Limited)**

1. The licensee is authorized to distribute, at its option, the special programming service consisting of local origination programming (community committee meetings) and the following programming services, without advertising material: National Film Board documentaries, video programming presented in co-operation with non-profit Manitoba tourism groups, Manitoba Department of Education programming, native programming supplied by Native Communications Inc., Manitoba Jockey Club Inc., Videon local productions and a cable menu service.
2. The licensee is relieved from the requirements of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHMI-TV Portage la Prairie/Winnipeg on an unrestricted channel. Should the quality of this signal deteriorate significantly, the licensee shall immediately undertake any necessary corrective action, including the distribution of this service on another channel.

## **Appendix 24 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Edmonton, Alberta (Videon Cablesystems Inc.)**

1. The licensee is authorized to distribute, at its option, the audio programming services of KMBI-FM (religious), KXLY-FM, KISC-FM, KDRK-FM, KEZE-FM and KZZU-FM Spokane, Washington, on audio channels of the undertaking.
2. The licensee is authorized to originate a video games service as a special programming service, offered on a discretionary basis, subject to the conditions listed in *Licence amendments concerning the distribution of a video games service*, Decision CRTC 95-920, 21 December 1995.

## **Appendix 25 to Broadcasting Decision CRTC 2010-820**

### **Conditions of licence for the terrestrial broadcasting distribution undertaking serving Winnipeg, Manitoba (Videon Cablesystems Inc.)**

1. The licensee is authorized to distribute, at its option, the following programming services, without advertising material: National Film Board documentaries, video programming presented in co-operation with non-profit Manitoba tourism groups, Manitoba Department of Education programming, native programming supplied by Native Communications Inc., Manitoba Jockey Club Inc., Videon local productions and a cable menu service.
2. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* that it distribute CHMI-TV Portage la Prairie/Winnipeg on an unrestricted channel. Should the quality of this signal deteriorate significantly, the licensee shall immediately undertake any necessary corrective action, including the distribution of this service on another channel.

## Additional considerations of the hearing Panel

1. Once again, the Commission is required to rely on sub-optimal regulatory tools to address non-compliance issues, resulting in less effective and more costly regulation, to the detriment of the broadcasting system and all Canadians.
2. Canada would benefit from amendments to the *Canadian Radio-television and Telecommunications Commission Act* to provide more timely and relevant regulatory compliance tools. These should include the ability for the Commission to issue administrative monetary penalties (AMPs) with regard to non-compliance matters and transgressions by licensees. Most G20 members have granted their communications regulators the authority to issue AMPs.
3. As the Canadian broadcasting system evolves, with competitive issues taking on increased emphasis within the distribution sector in particular, the Commission needs to have the ability to deal with transgressions and non-compliance issues in the most timely and targeted manner possible. Anything else results in less effective and more costly resolution of these matters to the detriment of consumers, the broadcasting distribution sector and the broadcasting system at large.
4. Based on past experience, shorter-term licence renewals, which have become the punitive *solution du jour*, do not always act as a deterrent. Some licensees may find the long-term prospect of being punished with a shorter licence term at their next licence renewal, which could be a number of years away, more appealing than incurring the short-term costs necessary to comply with regulatory obligations. A case in point is the obligation to meet Commission obligations relating to accessibility. Delays in meeting Commission objectives deny Canadians with disabilities meaningful access to programming in a timely manner, while the licensee is only judged at licence renewal, which can be years away. This was the situation prevailing for persons with disabilities who subscribe to Novus Entertainment Inc.'s (Novus) licensed broadcasting distribution undertaking (BDU). Novus' BDU licence renewal application is addressed in Broadcasting Decision 2010-821, issued concurrently with the present decision. We are not convinced that in these situations "the punishment fits the crime," nor does it provide adequate incentive to ensure timely regulatory compliance. While the Commission could call a licensee to a show cause hearing, issue mandatory orders and subsequently register those orders with the courts, we find this to be time-consuming, costly and process-laden. AMPs offer the benefit of allowing the Commission to deal with offenders and repeat offenders in the most direct and timely manner possible. This would also be consistent with the goals of providing regulatory certainty and making sure that "the punishment fits the crime."
5. In the present decision, Shaw Cablesystems Limited and Videon Cablesystems Inc. (collectively, Shaw) have been found to be in non-compliance with section 29.2 of the *Broadcasting Distribution Regulations* (the Regulations) from September 2009 to February 2010. This comes on the heels of two-year licence renewals granted to these undertakings in Broadcasting Decision 2008-234 as a result of non-compliance under other sections of the Regulations. Consequently, the Commission has determined that

it will renew the licences under consideration for five-year terms. Given the regulatory tools presently available to the Commission, the determination set out in this decision as well as in Broadcasting Decision 2010-821 – where, again, as a result of non-compliance by Novus with Distribution Order 2007-1 (set out in Appendix 2 to Broadcasting Decision 2007-246), the licensee was granted a five-year licence renewal – was optimal. However, as stated earlier, we do not believe a short-term renewal to be the most effective solution in either of these instances. While Shaw and Novus have found themselves in non-compliance for a period, we would have preferred having the ability to effectively deal with these non-compliance issues at the time they arose, thereby leaving open the option to grant their undertakings seven-year licence renewals. The consequence of this reality is the following:

- (i) in the case of Novus, those customers who rely on The Accessible Channel for their television programming were denied access for over a year after this channel began operation;
  - (ii) in the case of both Shaw and Novus, a likely higher financing cost during their two-year licence renewals in 2008 and additional regulatory and administrative costs associated with the short licence terms and subsequent renewal processes was incurred; and
  - (iii) for the Commission, additional costs were incurred to deal with the licence renewal applications under consideration within two years of these licences having last been renewed, including the costs of holding a public hearing, staff preparation time and Commissioner costs (all of which costs are borne by all licensees as part of the funding formula for recovery of the Commission's operating costs), as well as having to start the licence renewal process two years earlier in the future.
6. With regard to short-term licence renewals, it is interesting to note, as an illustrative example, that since 1 January 2010, of the 127 radio broadcasting programming undertaking licences renewed as of the time of preparing these remarks, 68 have been renewed on a short-term basis for reasons of non-compliance. In fact, several of these short-term licence renewals pertained to licences that had previously been renewed on a short-term basis for reasons of non-compliance. One can only wonder whether the regulatory tools presently at the Commission's disposal are sufficient to incent compliance.
  7. While Parliament has provided the Commission with AMPs to enforce recently acquired authority with respect to the National Do Not Call List and is currently contemplating AMPs as a means of dealing with Internet and Wireless spam (Bill C-28 of 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session), it has yet to provide the Commission with the authority to issue AMPs in order to assist it in discharging its duties with respect to the broadcasting system, nor has it provided the Commission with the authority to issue AMPs in order to assist it in the discharge of some of its longstanding duties with respect to the telecommunications sector.

8. Providing the Commission with the power to apply AMPs would not only achieve these objectives but also allow it to undertake a holistic review of its existing regulatory policies and procedures and simplify regulations by removing overlapping and outdated *ex ante* regulations that may no longer be necessary to further the various policy objectives it has been entrusted to implement.
9. In this regard, AMPs could be used to address some of the following areas should licensees or operators be found offside on regulatory requirements:
  - (i) under the broadcasting regime, non-compliance with digital television transition requirements, findings of undue preference or unjust discrimination, findings of non-compliance with conditions of licence, including accessibility-related obligations, failures in meeting Canadian content development commitments and delays in meeting filing deadlines, among others; and
  - (ii) under the telecommunications regime, findings of undue preference or unjust discrimination and failure to provide regulated telecommunications services, including wholesale services and findings of non-compliance with Net Neutrality principles, among others.
10. Many of these are recent phenomena brought on by consolidation and vertical integration. However, in the increasingly competitive arena that many entities regulated by the Commission find themselves, time is of the essence.
11. Canada is in the process of defining our role and priorities within the digital economy. Now would be the best time to cut through these delays and curtail regulatory bureaucracy by providing the Commission with the tools to act in the least intrusive and least invasive manner.