



Broadcasting Decision CRTC 2007-308

Ottawa, 17 August 2007

Persona Communications Corp.
Sudbury and Timmins, Ontario

*Applications 2006-1635-2 and 2006-1605-5, received 7 December 2006
Broadcasting Public Notice CRTC 2007-26
13 March 2007*

Class 1 cable broadcasting distribution undertakings in Sudbury and Timmins – Licence amendments and renewals

*The Commission **approves** amendments to the broadcasting licences for the Class 1 cable broadcasting distribution undertakings (BDUs) serving Sudbury and Timmins, Ontario, including an amendment with respect to the use of local availabilities, as well as an amendment to authorize the BDU serving Timmins to distribute WWJ-TV (CBS) Detroit, Michigan.*

*The Commission also **renews** the broadcasting licences for the Class 1 cable BDUs serving Sudbury and Timmins, Ontario, from 1 September 2007 to 31 August 2014.*

Licence amendments

1. Persona Communications Corp. (Persona) (formerly known as Regional Cablesystems Inc.) proposed amendments to the broadcasting licences of both the cable broadcasting distribution undertaking (BDU) serving Sudbury and the one serving Timmins. The proposed amendments include changes to the use of local availabilities and, for the BDU serving Timmins, the distribution of WWJ-TV (CBS) Detroit, Michigan.

Local availabilities

2. Persona proposed to amend its current condition of licence relating to the use of local availabilities. Specifically, Persona requested that the Commission authorize it to include promotions for non-programming services (e.g., Internet and telephony) in the 25% of local availabilities that it may use to promote BDU services.
3. In Broadcasting Public Notice 2006-69, the Commission set out its conclusion that it is appropriate to update its policy with respect to the use of local availabilities to permit BDUs to use these availabilities to promote non-programming services, subject to certain conditions. Specifically, the Commission concluded that BDUs that seek and receive amendments to their conditions of licence so as to use local availabilities for this purpose

will be authorized to use a maximum of 25% of local availabilities to provide information regarding customer service and channel realignments and for the promotion of discretionary programming services and packages, cable FM service, additional cable outlets and non-programming services, including Internet and telephone services.

4. The Commission added that the promotion of non-programming services in local availabilities should generally be limited to those non-programming services that are made available in conjunction with programming services and that are offered by the BDU, by an affiliated company or by a third party pursuant to a marketing arrangement with the BDU. The Commission noted that, should a complaint arise, BDUs should ensure that they are in a position to provide, at the Commission's request, a report with respect to their use of local availabilities. With respect to the costs of broadcasting promotions in local availabilities, the Commission reiterated that BDUs may only charge Canadian programming services their share of the direct costs associated with the insertion of their promotional material in local availabilities.
5. The Commission considers that the licensee's proposed amendment to its condition of licence is consistent with its updated policy regarding the use of local availabilities set out in Broadcasting Public Notice 2006-69. Accordingly, the Commission **approves** the application by Persona Communications Corp. and amends the broadcasting licences for its Class 1 cable BDUs serving Sudbury and Timmins. A **condition of licence** to this effect is set out in Appendices 1 and 2 to this decision.

Distribution of WWJ-TV (CBS) Detroit, Michigan, for the BDU serving Timmins

6. With respect to Persona's licence for the cable BDU serving Timmins, the Commission **approves** the licensee's request to replace WTOL-TV (CBS) Toledo, Ohio, with WWJ-TV (CBS) Detroit, Michigan, as part of the basic service. A **condition of licence** to this effect is set out in Appendix 2 to this decision.

Deletion of conditions of licence

7. The Commission considers that the deletions proposed by Persona, as described in its application, are appropriate and do not conflict with any of the Commission's existing policy requirements. The Commission also notes that no interventions were received opposing the proposed deletions to the licensee's broadcasting licence for these undertakings.

Licence renewals

8. The Commission **renews** the broadcasting licences for the Class 1 cable BDUs serving Sudbury and Timmins, Ontario, from 1 September 2007 to 31 August 2014.

9. In Decision 2001-398, the Commission approved a request by Persona to distribute, on a digital discretionary basis, a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and of the non-commercial PBS network (collectively, the U.S. 4+1 signals), as well as any of the distant Canadian television signals set out in the *List of Part 3 eligible satellite services*. This approval was subject to the provision that 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 also noted in Decision 2001-398 that the above provision may be suspended upon its approval of an executed agreement, as described in that decision, between the licensee and broadcasters.
10. In Broadcasting Decision 2006-692, the Commission announced that Canadian Cable Systems Alliance Inc. (CCSA), on behalf of Persona and various other licensees, had reached such an agreement with the Canadian Association of Broadcasters (CAB). As such, the application of the above-mentioned provision was suspended for Persona as well as for the other licensees.
11. The Commission reminds the licensee that, in the event that the agreement between the CCSA and the CAB is terminated at any time, the provision will no longer be suspended, and the licensee will once again be required, in accordance with this provision, to adhere to the requirements regarding non-simultaneous program deletion, as set out in section 43 of the Regulations. Should the agreement be terminated, the Commission is to be advised forthwith.
12. The operation of these undertakings is regulated pursuant to the Regulations. The licences will be subject to the **conditions** set out therein as well as to the **conditions** set out in Appendices 1 and 2 to this decision.

Interventions

13. The Commission did not receive any interventions with respect to these applications.

Employment equity

14. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *Suspension of the provision set out in the decisions listed in the appendix to the present decision relating to the requirements for non-simultaneous program deletion*, Broadcasting Decision CRTC 2006-692, 21 December 2006

- *Promotion of non-programming services using local availabilities, Broadcasting Public Notice CRTC 2006-69, 2 June 2006*
- *Approval of the Application by Regional Cablesystems Inc. for the Authority to Distribute both a second set of U.S. 4+1 signals and Distant Canadian Signals (CRTC List of Part 3 Eligible Services) on a Digital Discretionary Basis for its cablesystems located in Sudbury, Timmins, Sturgeon Falls/Jocko Point/Verner, Kirkland Lake/Chaput Hughes/King Kirkland, Elliot Lake, Kapuskasing, and New Liskeard, Ontario, Decision CRTC 2001-398, 10 July 2001*

This decision is to be appended to each licence, and each appendix is to be appended to the appropriate licence. This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site:
<http://www.crtc.gc.ca>

Appendix 1 to Broadcasting Decision CRTC 2007-308

Terms and conditions of licence applicable to the Class 1 cable broadcasting distribution undertaking serving Sudbury, Ontario

Terms

The licence will expire 31 August 2014.

Conditions of licence

1. The licensee shall operate the community channel as a bilingual programming service.
2. The licensee is authorized to distribute, at its option, CIII-TV-2 Bancroft and CHOT-TV Gatineau, as part of the basic service.
3. The licensee is authorized to distribute CITY-TV (IND) Toronto, as part of a discretionary tier (and duplicated on the digital service).
4. The licensee is authorized to distribute, at its option, WWUP-TV (CBS) Cadillac, WDIV (NBC) Detroit, WGTQ (ABC) Sault Ste. Marie and WTVS (PBS) Detroit, Michigan, as part of the basic service.
5. 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 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 *Broadcasting Distribution Regulations* regarding simultaneous substitution apply also in the case of U.S. 4+1 signals and distant Canadian signals.

6. The licensee may, at its option, insert certain promotional material as a substitute for the “local availabilities” (i.e., non-Canadian advertising material) of non-Canadian satellite services. At least 75% of these local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel, and for unpaid Canadian public service announcements. A maximum of 25% of the local availabilities may be used to provide subscribers with information regarding customer service and channel realignments, and for the promotion of discretionary programming services and packages, cable FM service, additional cable outlets and non-programming services, including Internet and telephone services.

Appendix 2 to Broadcasting Decision CRTC 2007-308

Terms and conditions of licence applicable to the Class 1 cable broadcasting distribution undertaking serving Timmins, Ontario

Terms

The licence will expire 31 August 2014.

Conditions of licence

1. The licensee shall delete commercial messages from television signals received from broadcasting stations not licensed to serve Canada and substitute suitable replacement material in place of such messages upon receipt of notice in writing from the Commission.
2. The licensee shall operate the community channel as a bilingual programming service.
3. The licensee is relieved from the requirement of section 25 of the *Broadcasting Distribution Regulations* to distribute the signals of the community channel and CHCH-TV Hamilton on unrestricted channels. Should the quality of the signals deteriorate significantly, the Commission expects the licensee to undertake immediate corrective action including, if necessary, the distribution of the services on other channels.
4. The licensee is authorized to distribute, at its option, CIII-TV-2 Bancroft and CHOT-TV Gatineau, as part of the basic service.
5. The licensee is authorized to distribute CITY-TV (IND) Toronto, as part of a discretionary tier (and duplicated on the digital service).
6. The licensee is authorized to distribute, at its option, WWJ-TV (CBS), WDIV (NBC) and WXYZ-TV (ABC) Detroit, Michigan, as part of the basic service.
7. 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 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 *Broadcasting Distribution Regulations* regarding simultaneous substitution apply also in the case of U.S. 4+1 signals and distant Canadian signals.

8. The licensee may, at its option, insert certain promotional material as a substitute for the "local availabilities" (i.e., non-Canadian advertising material) of non-Canadian satellite services. At least 75% of these local availabilities must be made available for use by licensed Canadian programming services for the promotion of their respective services, for the promotion of the community channel, and for unpaid Canadian public service announcements. A maximum of 25% of the local availabilities may be used to provide subscribers with information regarding customer service and channel realignments, and for the promotion of discretionary programming services and packages, cable FM service, additional cable outlets and non-programming services, including Internet and telephone services.