



Broadcasting Decision CRTC 2011-610

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Route reference: 2011-188

Ottawa, 23 September 2011

Ekaterina Niman, on behalf of a corporation to be incorporated

Greater Toronto Area, bounded by the city of Oshawa on the east, the city of Oakville on the south, the city of Orangeville on the west, and the city of East Gwillimbury on the north, Ontario

Application 2010-1846-6, received 12 December 2010

Public Hearing in the National Capital Region

17 May 2011

Terrestrial broadcasting distribution undertaking to serve the Greater Toronto Area

*The Commission **approves** the application by Ekaterina Niman, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a terrestrial broadcasting distribution undertaking to serve the Greater Toronto Area. The service area is bounded by the city of Oshawa on the east, the city of Oakville on the south, the city of Orangeville on the west and the city of East Gwillimbury on the north.*

The application

1. The Commission received an application by Ekaterina Niman, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a terrestrial broadcasting distribution undertaking (BDU) to serve the Greater Toronto Area. The service area would be bounded by the city of Oshawa on the east, the city of Oakville on the south, the city of Orangeville on the west and the city of East Gwillimbury on the north.
2. The licensee would be owned and controlled by its sole shareholder and sole director, Ms. Ekaterina Niman.
3. The applicant requested authorization to:
 - distribute, at its option, as part of its digital basic service, the signals of WIVB-TV (CBS), WGRZ-TV (NBC), WKBW-TV (ABC), WUTV (FOX) and WNED-TV (PBS) Buffalo, New York, or, alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area and included on the appropriate list of eligible satellite services, as amended from time to time and approved by the Commission;

- distribute, on a digital discretionary basis, any of the distant Canadian television signals set out in the *List of Part 3 Eligible Satellite Services* (now known as the *List of non-Canadian programming 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 (referred to as the second set of U.S. 4+1 signals);
 - distribute, at its option, WNYO-49 (Warner Brothers) Buffalo, New York, on a digital discretionary basis.
4. The applicant also stated its willingness to 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. In addition, the applicant committed to meet the requirements regarding customer service and information set out in Broadcasting and Telecom Regulatory Policy [2009-430](#) (the Accessibility Policy).
 5. The Commission received a general comment from Rogers Communications Partnership (Rogers). The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Intervention

6. Rogers did not object to the applicant's proposal in principle, but requested that the applicant be held to the same regulatory requirements that are imposed on Rogers as a licensed terrestrial BDU. Specifically, Rogers requested that the applicant demonstrate that it will comply with the Commission's distribution and linkage, priority carriage and access requirements, as well as the policy frameworks for the distribution of digital television (DTV) signals and high definition (HD) pay and specialty services. Furthermore, Rogers submitted that the licensee should be required to file a map that reflects the proposed service area, in a scale that permits precise identification of the boundaries.

Applicant's reply

7. The applicant stated that it would, at all times, comply with all of the Commission's distribution and linkage, priority carriage and access requirements, as well as with the policy frameworks for the distribution of DTV signals and HD pay and specialty services.

Commission's analysis and decisions

8. The Commission notes that the authorizations requested by the applicant are consistent with authorizations previously granted by the Commission in similar cases.
9. In Broadcasting Regulatory Policy 2011-455, the Commission set out amended *Broadcasting Distribution Regulations* (the Regulations). The amended Regulations address, among other things, the distribution by terrestrial BDUs of distant Canadian

signals and a second set of U.S. 4+1 signals. In light the above, a condition of licence authorizing a second set of U.S. 4+1 signals is no longer required. Further the Commission reminds the applicant that section 22 of the Regulations stipulates that a licensee shall not distribute a 4+1 package of programming services that originate outside the time zone in which the licensee's local head end is located unless the licensee also distributes to its subscribers the programming services of at least one television station from each English major ownership group that originate in the same time zone.

10. With regard to Rogers' submission that the applicant should have to provide a more precise map of its service area, the Commission notes it has already authorized a BDU to operate in a service area exactly as the one described in the application. As such, it does not consider that it is necessary for the applicant to provide a more precise map at this time. However, the Commission reminds the applicant that, should a complaint relating to signal distribution arise at any time during the licence term, it may be required to submit a current service area map in a GIS-compatible file format, following the specifications set out in Broadcasting Information Bulletin [2009-384](#).
11. In light of the above, the Commission **approves** the application by Ekaterina Niman, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a terrestrial BDU to serve the Greater Toronto Area. The service area will be bounded by the city of Oshawa on the east, the city of Oakville on the south, the city of Orangeville on the west and the city of East Gwillimbury on the north. The operation of this undertaking will be regulated pursuant to the *Broadcasting Distribution Regulations*. The licence will be subject to the **conditions** specified therein, as well as to the **conditions of licence** set out in the appendix to this decision.

Other matters

General authorizations for broadcasting distribution undertakings

12. The Commission notes that under the conditions specified in its licence, a licensee is also authorized to distribute any service and to undertake any activity authorized in Broadcasting Regulatory Policy 2011-522, as amended from time to time, under the terms and conditions set out therein. The most recent [general authorizations](#) can also be found on the Commission's website.

Implementation of the Commission's determinations regarding accessibility of services

13. The Accessibility Policy sets out the Commission's policy determinations regarding the accessibility of telecommunications and broadcasting services to persons with disabilities.
14. The applicant 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. Those means must require little or no visual acuity. A **condition of licence** to that effect is set out in the appendix to this decision. In

addition, consistent with the Accessibility Policy, the Commission expects the applicant to ensure that subscribers are able to identify programming with described video in the electronic program guide, and to make information available in alternative formats to subscribers regarding, among other things, the programming and services offered and the channel line-up.

15. Additionally, consistent with the Accessibility Policy and commitments made by the licensee, the licensee 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 website, if its website includes such sections;
- make the information on its website accessible to the point of providing 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 in the Accessibility Policy);
- ensure that, where customer service functions on its website 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 its website by 23 July 2012;
- make its general call centers accessible to the point of providing reasonable accommodation to persons with disabilities by:
 - a) training customer service representatives in handling enquiries from person with disabilities and familiarizing them with the service provider's products and services for persons with disabilities; and
 - b) making its Interactive Voice Response systems accessible by 23 July 2012.

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

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

Mandatory distribution of 9(1)(h) services

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

Secretary General

Related documents

- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2011-522, 24 August 2011
- *Amendments to the Broadcasting Distribution Regulations and other Commission Regulations*, Broadcasting Regulatory Policy CRTC 2011-455, 29 July 2011
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009
- *Streamlining of certain filing requirements for broadcasting distribution undertakings*, Broadcasting Information Bulletin CRTC 2009-384, 26 June 2009

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

Appendix to Broadcasting Decision CRTC 2010-610

Terms, conditions of licence, requirements, expectations and encouragements

Terms

Issuance of the broadcasting licence to operate a terrestrial broadcasting distribution undertaking to serve the Greater Toronto Area. The service area is bounded by the city of Oshawa on the east, the city of Oakville on the south, the city of Orangeville on the west and the city of East Gwillimbury on the north

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

A licence will be issued once the applicant has:

- satisfied the Commission with supporting documentation that an eligible Canadian corporation has been incorporated in accordance with the application in all material respects;
- informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 23 September 2013. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date; and
- filed, at the same time it informs the Commission that it is ready to commence operations, a website address where its distribution grid is posted.

The licence will expire 31 August 2018.

Conditions of licence

1. The licensee is authorized to distribute, at its option, as part of its digital basic service, the signals of WIVB-TV (CBS), WGRZ-TV (NBC), WKBW-TV (ABC), WUTV (FOX) and WNED-TV (PBS) Buffalo, New York, or, alternatively for each signal, the signal of a different affiliate of the same network located in the same time zone as that of the licensed area and included in the *List of non-Canadian programming services authorized for distribution*, as amended from time to time.
2. The licensee is authorized to distribute, at its option, WNYO-49 (Warner Brothers) Buffalo, New York, on a digital discretionary basis.
3. The licensee shall provide one or more simple means of accessing described programming, whether in an open or embedded format, that requires little or no visual acuity.

Requirements

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

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

The licensee is required to make the information on its website accessible to the point of providing reasonable accommodation for persons with disabilities by 23 July 2012 (examples of what the Commission considers to be reasonable accommodations are listed in paragraph 66 in the Accessibility Policy).

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

The licensee is required to make accessible any customer service functions that are available solely over its website by 23 July 2012.

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

- a) training customer service representatives in handling enquiries from persons with disabilities and familiarizing them with the service provider's products and services for persons with disabilities; and
- b) making its Interactive Voice Response systems accessible by 23 July 2012.

Expectations

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

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

Encouragements

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

Employment equity

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.