



## Broadcasting Decision CRTC 2011-807

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Route reference: 2011-595

Ottawa, 22 December 2011

### **Beanfield Technologies Inc.**

Toronto (East Bayfront and West Don Lands), Ontario

*Application 2011-1056-9, received 6 July 2011*

*Public hearing in the National Capital Region*

*21 November 2011*

### **Terrestrial broadcasting distribution undertaking to serve Toronto (East Bayfront and West Don Lands)**

*The Commission **approves** an application for a broadcasting licence to operate a terrestrial broadcasting distribution undertaking to serve Toronto (East Bayfront and West Don Lands).*

#### **The application**

1. The Commission received an application by Beanfield Technologies Inc. (Beanfield) for a broadcasting licence to operate a terrestrial broadcasting distribution undertaking (BDU) to serve Toronto (East Bayfront and West Don Lands).
2. Beanfield is equally owned by Daniel Armstrong (25%), Christopher Amendola (25%), Michael Armstrong (25%) and Ceto Holdings Inc. (25%) and equally controlled by Messrs. Armstrong, Amendola, Armstrong and Clinton Novak through his control of Ceto Holdings Inc.
3. Beanfield requested authorization to:
  - distribute, at its option, as a part of the basic service, 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; and
  - distribute, on a digital discretionary basis, WNYO (MyTV) and WNLO (CW 23) Buffalo, New York.
4. Beanfield also indicated 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. It further committed to meet the requirements regarding customer service and information set out in Broadcasting and Telecom Policy 2009-430 (the Accessibility Policy).

### **Intervention and applicant's reply**

5. The Commission received a comment from Rogers Communications Partnership (Rogers). Rogers stated that it did not object to Beanfield's proposal to operate a competitive BDU in Toronto. Rogers however highlighted deficiencies in the application to ensure that Beanfield be held to the same requirements as are imposed on Rogers as a licensed terrestrial BDU. Specifically, Rogers noted that the proposed channel line-up did not include the over-the-air television signal CITS-TV Hamilton, which is a priority signal for all BDUs operating in Toronto and must therefore be distributed as part of the basic service. Rogers also noted that it appeared that Beanfield did not intend to distribute all English-language Category A specialty services as part of its channel line-up, as required under section 18(2)(a)(i) of the *Broadcasting Distribution Regulations* (the Regulations) for licensees operating in anglophone markets. Rogers added that section 18(2)(a)(iii) of the Regulations requires a licensee operating in an anglophone market to distribute at least one French-language Category A, Category B or Category C service for every ten English-language programming services that it distributes, to the extent that such services are available.

6. In reply, Beanfield stated that it would revise its channel line-up to meet all regulatory requirements, including those noted by Rogers. Beanfield also reiterated that it would comply with the Regulations for all terrestrial BDUs and all applicable distribution rules.

### **Commission's analysis and decision**

7. The Commission is satisfied with Beanfield's reply to Rogers' intervention and requires Beanfield to revise its channel line-up to meet all regulatory requirements. The Commission further notes that the authorizations requested by the applicant are consistent with authorizations previously granted by the Commission in similar cases.

8. In light of all of the above, the Commission **approves** the application by Beanfield Technologies Inc. for a broadcasting licence to operate a terrestrial broadcasting distribution undertaking to serve Toronto (East Bayfront and West Don Lands). The licence will be subject to the **conditions** specified therein, as well as to the terms and **conditions of licence** set out in the appendix to this decision.

### **Other matters**

#### **General authorizations for broadcasting distribution undertakings**

9. 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 2009-546, as amended from time to time, under the terms and conditions set out therein.

### **Implementation of the Commission's determinations regarding accessibility of services**

10. In the Accessibility Policy, the Commission stated its intention to impose on BDUs a number of requirements and expectations pertaining to customer service, access to described video and accessibility of programming. **Conditions of licence**, requirements and expectations to improve accessibility are set out in the appendix to this decision.

11. Further, in Broadcasting Regulatory Policy 2010-622, the Commission stated that it intended to impose conditions of licence requiring licensed BDUs that operate community channels to caption 100% of original licensee-produced programming by the end of the licence term. The Commission also indicated that it expected licensed BDUs to ensure that 100% of original access programming on the community channel is captioned by the end of the licence term. Finally, the Commission stated that it intended to impose conditions of licence requiring licensed BDUs that operate a community channel to provide audio description for all information programs and for news programming (that is, the voice-over of key textual, graphic design and still image elements, such as phone numbers, stock information or weather maps that are posted on the screen). **Conditions of licence** and/or expectations to this effect are set out in the appendix to this decision.

12. 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**

13. The Commission reminds the applicant that it will be required to distribute within its licensed area 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**

- *Community television policy*, Broadcasting Regulatory Policy CRTC 2010-622, 26 August 2010
- *General authorizations for broadcasting distribution undertakings*, Broadcasting Regulatory Policy CRTC 2009-546, 31 August 2009
- *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009

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

## Appendix to Broadcasting Decision CRTC 2011-807

### Terms, conditions of licence, requirements, expectations and encouragements

#### Terms

##### Issuance of the broadcasting licence to operate a terrestrial broadcasting distribution undertaking to serve Toronto (East Bayfront and West Don Lands)

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:

- 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 **22 December 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.
- 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 a part of the basic service, 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 on a digital discretionary basis WNYO-TV and WNLO-TV Buffalo, New York.
3. The licensee shall provide one or more simple means of accessing described programming, whether in an open or embedded format, that requires little or no visual acuity.
4. The licensee shall caption 100% of original licensee-produced programming on the community channel by the end of the licence term.
5. The licensee shall provide audio description for all the key elements of information programs, including news programming on its community channel (that is, the voice-over

of key textual, graphic design and still image elements, such as phone numbers, stock information or weather maps that are posted on the screen).

## **Requirements**

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

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

The licensee is required to make the information on its website accessible to the point of providing reasonable accommodation for persons with disabilities by 23 July 2012 (examples of what the Commission considers to be reasonable accommodations are listed in paragraph 66 of *Accessibility of telecommunications and broadcasting services*, Broadcasting and Telecom Regulatory Policy CRTC 2009-430, 21 July 2009).

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

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

## **Expectations**

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

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

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

## **Encouragements**

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

## **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.