



## Broadcasting Decision CRTC 2015-100

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Route reference: 2014-621

Ottawa, 24 March 2015

### **Shaw Cablesystems (VCI) Limited**

Edmonton, Alberta; Winnipeg, Manitoba; and across Canada

*Application 2014-0922-7, received 5 September 2014*

*Public hearing in the National Capital Region*

*19 February 2015*

### **Terrestrial broadcasting distribution undertakings serving Edmonton and Winnipeg, and a national video-on-demand programming undertaking – Acquisition of assets (corporate reorganization)**

1. The Commission **approves** the application by Shaw Cablesystems (VCI) Limited (Shaw Cablesystems) for authority to acquire from Shaw Communications Inc. (Shaw Communications), through a corporate reorganization, the assets of Shaw Communications' terrestrial broadcasting distribution undertakings (BDUs) serving Edmonton, Alberta, and Winnipeg, Manitoba, as well as Shaw Communications' national video-on-demand (VOD) programming undertaking. The Commission did not receive any interventions regarding this application.
2. Shaw Cablesystems is a wholly owned subsidiary of Shaw Communications, which in turn is controlled by Mr. JR Shaw pursuant to the terms of a voting trust agreement. This transaction will not affect the effective control of the undertakings, which will continue to be exercised by Mr. JR Shaw.
3. Following completion of the transaction, Shaw Cablesystems will become the licensee of the above-mentioned undertakings.
4. Pursuant to the *Direction to the CRTC (Ineligibility of Non-Canadians)* (the Direction) issued by the Governor in Council under subsection 26(1) of the *Broadcasting Act*, no broadcasting licence may be issued, and no amendment or renewals thereof may be granted, to an applicant that is a non-Canadian. A non-Canadian is a person or entity that is not a Canadian. A Canadian includes a qualified corporation.
5. The Direction defines a qualified corporation as follows:

“qualified corporation” means a corporation incorporated or continued under the laws of Canada or a province, where

- (c) in the case of a corporation that is a subsidiary corporation,
  - (i) the parent corporation is incorporated or continued under the laws of Canada or a province,
  - (ii) Canadians beneficially own and control, directly or indirectly, in the aggregate and otherwise than by way of security only, not less than 66 2/3 per cent of all of the issued and outstanding voting shares of the parent corporation and not less than 66 2/3 per cent of the votes, and
  - (iii) the parent corporation or its directors do not exercise control or influence over any programming decisions of the subsidiary corporation where:
    - (A) Canadians beneficially own and control, directly or indirectly, in the aggregate and otherwise than by way of security only, less than 80 per cent of the issued and outstanding voting shares of the parent corporation and less than 80 per cent of the votes,
    - (B) the chief executive officer of the parent corporation or, where the parent corporation has no chief executive officer, the person performing functions that are similar to the functions performed by a chief executive officer is a non-Canadian, or
    - (C) less than 80 per cent of the directors of the parent corporation are Canadian.
- 6. On the basis that less than 80% of Shaw Communications' board of directors is Canadian, Shaw Cablesystems proposed to revise its by-law to create an Independent Programming Committee (IPC) that ensures that Shaw Communications does not control or influence its programming decisions. The applicant indicated that no member of the IPC is a director, officer or employee of Shaw Communications. The members of the IPC were appointed by Shaw Communications' board of directors on 23 October 2014.
- 7. The Commission has determined that Shaw Cablesystems' proposal satisfies the requirements of the Direction as neither Shaw Communications, nor its directors nor its officers will have control or influence over Shaw Cablesystems' programming decisions.
- 8. Upon surrender of the current licences issued to Shaw Communications, the Commission will issue new broadcasting licences to Shaw Cablesystems to operate the terrestrial BDUs set out above under the same terms and **conditions** as those in effect under the current licences, and to operate the aforementioned national VOD service under the standard conditions of licence, expectations, and encouragement set out in Appendix 6 to *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders - Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444, 29 August 2014.

9. The Commission reminds the licensee that it must comply at all times with the definition of qualified corporation as set out in the Direction.
10. The Commission also advises Shaw Cablesystems that any non-compliance that may have occurred from the date of the last licence renewals while operating under Videon Cablesystems Inc. and subsequently under Shaw Communications Inc.—that is, from 1 December 2010 for the two BDUs and from 1 June 2012 for the VOD service—will be considered at the time of the next renewal of these licences.
11. The BDU licences and the VOD licence will expire on 31 August 2016.

### **Employment equity**

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

Secretary General

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