



Broadcasting Decision CRTC 2004-349

Ottawa, 16 August 2004

Craig Wireless International Inc.

Brandon, Foxwarren, McCreary, Dauphin, Elie, Winnipeg, Interlake
(Fraserwood), Lac du Bonnet and Falcon Lake, Manitoba

Application 2003-0432-9

Public Hearing in the National Capital Region

20 October 2003

Craig – MDS licence renewal

The Commission renews the broadcasting licence for the Class 1 multipoint distribution system broadcasting distribution undertaking serving various urban and rural communities in Manitoba. The licence term will be seven years, from 1 September 2004 to 31 August 2011

The application

1. At the 20 October 2003 hearing in the National Capital Region, the Commission considered an application by Craig Wireless International Inc. (Craig) for renewal of the Class 1 broadcasting distribution undertaking (BDU) licence it holds for the operation of a multipoint distribution system (MDS) undertaking serving Winnipeg and eight other Manitoba communities. SkyCable Inc., which was originally licensed to provide MDS service to these Manitoba communities in Decision CRTC 95-910, 20 December 1995, was renamed Craig Wireless International Inc. in 2000.
2. Also considered at the 20 October 2003 hearing were renewal applications by two other MDS licensees, namely LOOK Communications Inc. (LOOK) and Image Wireless Communications Inc. (Image). LOOK holds two regional Class 1 BDU licences, one to provide MDS service to Toronto and 26 other communities in southern Ontario, and the other to serve the communities of Montréal and Québec and surrounding areas, the Saguenay/Lac St-Jean region, and Eastern Ontario and Western Quebec (including the National Capital Region). Image holds thirteen Class 3 BDU licences, one to serve Lloydminster, Alberta, and the remainder for separate MDS undertakings serving Regina, Saskatoon and ten other communities in Saskatchewan. The licences held by LOOK and Image, respectively, are renewed in *LOOK – MDS licence renewal*, Broadcasting Decision CRTC 2004- 347nd *Image – MDS licence renewal*, Broadcasting Decision CRTC 2004-348oth of today's date.

3. The Commission's general analysis and findings with respect to various matters affecting Craig and the other two MDS licensees in common, including the role that MDS undertakings play within the Canadian broadcasting system, and the services they are permitted or required to distribute, are set out in *Licence renewal for various multipoint distribution system undertakings*, Broadcasting Public Notice CRTC 2004-63 (Public Notice 2004-63) also of today's date. In this decision, the Commission examines matters that are specific to Craig and its licence renewal, such as the licensee's required contributions to local expression, Canadian programming and community television, and its requests for amendments to various other conditions of licence.

Contributions to the production of Canadian programming

4. Craig's existing conditions of licence require Craig to "contribute to community programming, in each broadcast year, a minimum of 6% of its total subscriber revenues for basic, discretionary, pay television and pay-per-view services". As part of this contribution of 6% of its subscriber revenues, Craig was also required, over the licence term, to "make direct contributions totalling \$360,000 to the Manitoba Cultural Industries Development Office or to other independent Canadian program development funds." The licensee was further required to establish a separate educational programming channel, beginning in the third year of operation.
5. The Commission notes that the Manitoba Cultural Industries Development Office was succeeded by the Manitoba Motion Picture Industry Association (MMPIA) during the first licence term as the beneficiary of the \$360,000 in funding mentioned above.
6. In its renewal application, Craig argued that it did not have the financial capacity to fund the operations of a community channel and a separate educational programming channel. It also claimed that the operation of a single community channel was impracticable, given the size of the area served by the single MDS undertaking. Further, Craig noted that its required 6% contribution to community programming exceeded the 5% contribution that Class 1 and Class 2 cable BDUs are generally obliged to make to local expression, Canadian programming and community television. Accordingly, Craig requested that its conditions of licence be amended to remove the requirements concerning the operation of a community channel and of a separate educational programming channel. It also requested that its required financial contribution be reduced to the 5% level generally required of other Class 1 BDUs for local expression, Canadian programming and community television, and that it be permitted to fulfil this requirement over the licence term rather than on an annual basis. In addition, in response to questioning at the hearing, Craig indicated that it wished to have the current requirements removed from its conditions of licence pertaining to the funding of the MMPIA.
7. The Commission considers reasonable Craig's request that its required contribution to local expression, Canadian programming and community television be reduced from 6% to 5% of its total subscriber revenues for basic, discretionary, pay television and pay-per-view services. Such a reduction would bring this licensee's required level of contribution into line with that generally required of other Class 1 BDUs under section 29 of the

Broadcasting Distribution Regulations (the Regulations). The Commission therefore **approves** this change. However, the Commission considers the licensee's request that it be permitted to make the required 5% contribution over the licence term, rather than on an annual basis, to be inconsistent with the requirements imposed on other BDUs, which help ensure stability of funding for the production of Canadian television programming. The Commission also considers that the licensee should be required to maintain its support for independent program production in Manitoba through its funding of the MMPIA.

8. Accordingly, the Commission **denies** Craig's request that it be permitted to make its required contribution to local expression, Canadian programming and community television over the licence term rather than on an annual basis, except for the contribution of a minimum of \$360,000 that Craig will be required to make to the MMPIA. The Craig contribution to the MMPIA may be made over the new licence term, and the payments made to the MMPIA in any year may form part of the licensee's contribution to local expression, Canadian programming and community programming otherwise required in that year. A **condition of licence** setting out the above requirements is contained in the appendix to this decision.

Further condition of licence amendments

9. The Commission notes that, as requested by Craig, the licensee's conditions of licence permit it to offer community programming should it wish to do so. The Commission reminds the licensee that, should it elect to offer community programming, it must do so in accordance with sections 1, 27 and 28 of the Regulations. By condition of licence, it must also adhere to the *Cable Community Channel Standards*, and the guidelines on the depiction of violence in television programming set out in the Canadian Association of Broadcasters' *Voluntary Code Regarding Violence in Television Programming*, as amended from time to time and approved by the Commission.
10. As further requested by Craig, the Commission has updated other conditions of licence by replacing references to the repealed *Cable Television Regulations, 1986* with references, as appropriate, to the Regulations.

Employment equity

11. 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.

Licence term

12. The Commission is satisfied that a full licence term is warranted, and it accordingly **renews** the broadcasting licence issued to Craig Wireless International Inc. for the Class 1 multipoint distribution system (MDS) broadcasting distribution undertaking serving various urban and rural communities in Manitoba from 1 September 2004 to 31 August

2011. The licence will be subject to the conditions specified therein, to the conditions set out in the appendix to this decision, and to the applicable determinations found in Public Notice 2004-63.

Secretary General

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

Appendix to Broadcasting Decision CRTC 2004-349

Conditions of licence

1. a) or the purposes of the *Broadcasting Distribution Regulations*, as amended from time to time, the licensee is a Class 1 licensee;

b) he licensee shall adhere to the *Broadcasting Distribution Regulations* with the exceptions of sections 16.1, 17, 18, 19, 20, 22, 24, 29, 30 and Part V.
2. The licensee shall devote at least 50% of its allotted frequency spectrum to the distribution of programming services, other than pay-per-view programming services.
3. The licensee shall distribute at least one licensed pay television service, specialty service or Category 1 service, as defined by the *Broadcasting Distribution Regulations*, for every two programming services of any other type that it may distribute, including those of licensed television stations, Category 2 services, pay-per-view services, non-Canadian television stations, or Part 2 eligible satellite services, but excluding the services of radio stations and other audio programming services. For the purposes of this condition, each pay-per-view service shall be counted as one television programming service, regardless of the number of channels used to distribute that service.
4. Unless otherwise authorized by the Commission, the licensee shall distribute, from the transmitter site serving the western region of its service area, including Brandon, Foxwarren, McCreary and Baldy Mountain (Dauphin), and from that serving the eastern region of its service area, including Elie, Winnipeg, Chatfield, Lac du Bonnet and Falcon Lake, the programming services listed below:

Western region: CKX-TV (CBC) Brandon
 CKY-TV (CTV) Winnipeg
 CKND-TV (Global) Winnipeg
 CBWFT (SRC) Winnipeg

Eastern region: CBWT (CBC) Winnipeg
 CKY-TV (CTV) Winnipeg
 CKND-TV (Global) Winnipeg
 CHMI-TV (IND) Portage La Prairie/Winnipeg
 CBWFT (SRC) Winnipeg
5. The licensee is authorized to distribute:
 - a) any television stations that it might otherwise be required to distribute under section 17 of the *Broadcasting Distribution Regulations*;

- b) any licensed Canadian pay television service, specialty service, Category 1 service or Category 2 service;
 - c) no more than one set of U.S. 4+1 services; and
 - d) any of the authorized Canadian or non-Canadian services set out in the List of Part 2 Eligible Satellite Services contained in appendix A of the *Revised list of eligible satellite services*, as amended from time to time.
6. The non-Canadian programming services authorized for distribution under 5 (d) above may only be offered in a package with Canadian pay television and/or Canadian specialty services, and are subject to the following linkage requirements:
- a) each Canadian pay television service (excluding a pay-per-view service) may be linked in a single package with no more than five non-Canadian programming services from Section A or Section B of the List of Part 2 Eligible Satellite Services, but in no case can a licensee distribute more than five channels of non-Canadian-originated services linked with Canadian pay television services, regardless of the number of Canadian pay television services distributed by the licensee;
 - b) each Canadian specialty service, distributed within a package that may include one or more Canadian specialty and/or pay television services, may be linked with no more than one of the non-Canadian-originated services specified in Section A of the List of Part 2 Eligible Satellite Services;
 - c) the licensee may designate one of the U.S. superstations specified in Section B of the List of Part 2 Eligible Satellite Services and distribute the signal of that superstation within a discretionary package that may include one or more Canadian specialty and/or pay television service; and
 - d) the licensee is not permitted to offer a package of services containing only non-Canadian programming services.
7. In anglophone markets, the licensee shall distribute at least one licensed French-language programming service, whether that of a licensed television station, a specialty service, Category 1 or Category 2 service, or pay television service, as defined in the *Broadcasting Distribution Regulations*, for every ten English-language programming services it distributes, including those of licensed television stations, specialty services, Category 1 or Category 2 services, pay television services, pay-per-view services and non-Canadian-originated programming services, or any combination thereof, but excluding the services of radio stations and other audio programming services. For the purposes of this condition, each pay-per-view service shall be counted as one television programming service, regardless of the number of channels used to distribute that service.

8. The licensee is authorized to distribute an Electronic Programming Guide and a Pay-per-view Preview Channel.
9. Unless otherwise authorized by the Commission:
 - a) the licensee shall delete the distribution of the programming of a non-Canadian television programming service and substitute the comparable programming of a Canadian television programming undertaking, licensed to serve the province of Manitoba, where the signal of that Canadian television programming undertaking is distributed by the licensee; and
 - b) the licensee shall delete and substitute the programming of television programming services, in the manner contemplated in paragraph a) above, where the licensee has received, at least four days prior to the date on which the programming is broadcast, a written request for the deletion and substitution of the programming of the television programming service.
 - c) the licensee may discontinue the deletion and substitution of programming of a television programming service where the licensee verifies that the programming of the television programming services in respect of which the deletion is made, is not, or is no longer scheduled for distribution in identical periods.

For the purpose of this condition, “comparable” shall have the same meaning as defined in the *Broadcasting Distribution Regulations*.

10. The licensee shall contribute to Canadian programming, in each broadcast year, a minimum of 5% of its total subscriber revenues for basic, discretionary, pay television and pay-per-view services. Over the licence term, and from the above-noted financial commitment, the licensee shall make direct contributions totalling at least \$360,000 to the Manitoba Motion Picture Industry Association. The remainder of its required contribution may be paid to either the Manitoba Motion Picture Industry Association, the Canadian Television Fund or to other independent Canadian production funds, provided that these other funds meet the criteria set out in Public Notice CRTC 1997-98, as may be amended from time to time.
11. For community programming and any other programming of a service that it originates, the licensee shall adhere to the *Cable Community Channel Standards*, and the guidelines on the depiction of violence in television programming set out in the Canadian Association of Broadcasters’ *Voluntary Code Regarding Violence in Television Programming*, as amended from time to time and approved by the Commission.