



Canada Industrial Relations Board • Conseil canadien des relations industrielles

C.D. Howe Building, 240 Sparks Street, 4th Floor West, Ottawa, Ontario K1A 0X8
Édifice C.D. Howe, 240, rue Sparks, 4^e étage ouest, Ottawa (Ontario) K1A 0X8
Fax/Télécopieur: 613-995-9493

**Our Files: 22170-C, 25183-C,
26541-C**

Document No.: 245438

November 6, 2007

CIRB Letter Decision No. 1695

BY TELECOPIER

Rogers Law Office
Barristers & Solicitors
1210 - 1140 West Pender Street
Vancouver, British Columbia
V6E 4G1 604-681-1475

Attention: Mr. Daniel J. Rogers
Ms. Debra L. Burton

Thompson Dorfman Sweatman LLP
Barristers & Solicitors
CanWest Global Place
2200 - 201 Portage Avenue
Winnipeg, Manitoba
R3B 3L3 204-934-0534

Attention: Mr. E.W. Olson, Q.C.
Mr. Keith D. LaBossiere
Mr. Adrian B. Frost

Dear Sirs/Madam:

In the matter of the *Canada Labour Code (Part 1 - Industrial Relations)* and applications filed pursuant to sections 18, 18.1 and 35 of the *Code* by the Communications, Energy and Paperworkers Union of Canada, applicant; Global Television Network Inc., Global Communications Limited, CanWest Interactive Company (2846551 Canada Inc.), CanWest Television Inc., CanWest Global Communications Corp., CanWest Broadcasting Ltd., CHEK owned and operated by Global Communications Limited, CHAN (BCTV) owned and operated by Global Communications Limited, CHBC owned and operated by Global

-2-

Communications Limited, CICT (Global Calgary) owned and operated by Global Communications Limited, CITV (Global Edmonton) owned and operated by Global Communications Limited, CISA (Global Lethbridge) owned and operated by Global Communications Limited, CFSK owned and operated by CanWest Television Inc., CKND Television, a Division of CanWest Television Inc., CIII (Global Ontario) owned and operated by Global Communications Limited, CIHF (Global St. John) owned and operated by Global Communications Limited, and CIHF (Global Halifax) owned and operated by Global Communications Limited, employers. (22170-C)

In the matter of the *Canada Labour Code (Part I - Industrial Relations)* and an application filed pursuant to sections 18, 18.1 and 35 thereof by the Communications, Energy and Paperworkers Union of Canada, applicant; Global Television Network Inc., Global Communications Limited, CanWest Interactive Company (2846551 Canada Inc.), CanWest Television Inc., CanWest Global Communications Corp., CanWest Broadcasting Ltd., CHEK owned and operated by Global Communications Limited, CHAN (BCTV) owned and operated by Global Communications Limited, CHBC owned and operated by Global Communications Limited, CICT (Global Calgary) owned and operated by Global Communications Limited, CITV (Global Edmonton) owned and operated by Global Communications Limited, CISA (Global Lethbridge) owned and operated by Global Communications Limited, CFSK-TV, a Division of CanWest Television Inc., CKND Television, a Division of CanWest Television Inc., CIII (Global Ontario) owned and operated by Global Communications Limited, CIHF (Global St. John) owned and operated by Global Communications Limited, CIHF (Global Halifax) owned and operated by Global Communications Limited, and CHCH Hamilton, a division of Global Communications Limited, employers. (25183-C)

In the matter of the *Canada Labour Code (Part I - Industrial Relations)* and an application filed pursuant to sections 18.1(3), and 19.1 thereof by Communications, Energy and Paperworkers Union of Canada, applicant, and Global Television Network Inc., Global Communications Limited, CanWest Interactive Company (2846551 Canada Inc.), CanWest Television Inc., CanWest Global Communications Corp., CanWest Broadcasting Ltd., CHEK owned and operated by Global Communications Limited, CHAN (BCTV) owned and operated by Global Communications Limited, CHBC owned and operated by Global Communications Limited, CICT (Global Calgary) owned and operated by Global Communications Limited, CITV (Global Edmonton) owned and operated by Global Communications Limited, CISA (Global Lethbridge) owned and operated by Global Communications Limited, CFSK-TV, a Division of CanWest Television Inc., CKND Television, a Division of CanWest Television Inc., CIII (Global Ontario) owned and operated by Global Communications Limited, CIHF (Global St. John) owned and operated by Global Communications Limited, CIHF

-3-

(Global Halifax) owned and operated by Global Communications Limited, and CHCH Hamilton, a division of Global Communications Limited, respondents.
(26541-C)

The Board consisting of Ms. Louise Fecteau, Vice-Chairperson, and Messrs. Daniel Charbonneau and Patrick J. Heinke, Members, examined the three above-cited applications, which have been consolidated pursuant to section 20 of the *Canada Industrial Relations Board Regulations, 2001*.

On April 27, 2001, the Communications, Energy and Paperworkers Union of Canada (CEP or the union) filed an application pursuant to sections 18, 18.1 and 35 of the *Canada Labour Code (Part I - Industrial Relations)* (the *Code*) requesting that the Board order that the various respondents generally referred to as CanWest are a single employer and a single federal work, undertaking or business for all purposes of the *Code* (file no. 22170-C).

On March 4, 2005, the Board issued *Global Television Network Inc. et al.*, [2005] CIRB no. 313, in which it granted the single employer declaration and determined that there would be regional bargaining units at the single employer.

Both parties filed applications for reconsideration of the original panel's decision. In *Global Television Network Inc. et al.*, [2006] CIRB no. 351; and 2006 CLLC 220-022, a reconsideration panel of the Board upheld the original panel's decision, rendered in *Global Television Network Inc. et al.*, *supra*, to issue a single employer declaration and to review the bargaining unit structure under section 35 of the *Code*. The reconsideration panel nevertheless concluded that the manner in which section 18.1(2) of the *Code* was applied in this case constituted an error in law and that the parties had to be afforded an opportunity to negotiate the bargaining unit structure.

Following that reconsideration decision, the parties engaged in negotiations with the Board's assistance, but were not able to reach an agreement on the bargaining unit structure. The matter was therefore referred back to this panel for determination under section 18.1(3) of the *Code*.

-4-

Further to a case management conference held on October 24, 2006, in Calgary, it was determined that the Board would first hear evidence with respect to the bargaining unit structure in light of the circumstances that have evolved since the issuance of the single employer declaration in 2005. It was also determined that the Board would render a decision on this issue prior to adjudicating any other issues that may still be in dispute, such as inclusions and exclusions and the applicable collective agreements. A hearing was held on February 20, 21, 22 and May 1 and 2, 2007 in Vancouver, British Columbia.

The Board is also seized of an application filed by the union on July 12, 2005 pursuant to sections 18, 18.1 and 35 of the *Code*, requesting that television station CHCH Hamilton be included in the proceedings with respect to its application for a single employer declaration after determinations in reconsideration files (file no. 25183-C). This application is granted with reasons to follow. Accordingly, the single employer declaration includes CHCH Hamilton.

On October 12, 2007, the union filed an application for interim orders under sections 18.1(3), 18.1(4) and 19.1 of the *Code* (file no. 26541-C). This application was also assigned to this panel and was seeking the five following orders: (1) an order to adduce further evidence of the events which have occurred subsequent to the conclusion of the hearing on the bargaining unit structure on May 2, 2007; (2) an immediate cease and desist order as against the single employer to prevent it from implementing any operational changes announced; (3) an order giving leave to the union to give notice to bargain in relation to all existing bargaining units and requiring the employer to meet as a single employer with the union to negotiate all matters related to the announced intended changes; (4) an order amending as necessary the expiry dates of collective agreements; (5) an order, as may be appropriate, to ensure that the union has a full opportunity to negotiate with the employer on all matters related to the announced operational changes.

The Board has decided that it would be appropriate to examine all the evidence and submissions filed by the parties in this application. However, the Board is of the opinion that this further material does not affect the present decision on the bargaining unit structure. The other requests for interim orders are denied with reasons to follow. This is a unanimous decision of the Board.

The Board was asked to proceed at the earliest possible time with its determination of the appropriate bargaining unit structure. As a means of expediting the process, the Board has decided to communicate its determination of this matter by way of this bottom-line decision, with full reasons to follow.

Following a review of all of the evidence and extensive submissions of the parties, the majority of the Board has determined that it would be appropriate to create three separate regional bargaining units, which would combine the following 13 current bargaining units:

(1) British Colombia : CHAN Vancouver (BCTV), CHEK Victoria and CHBC Kelowna;

(2) Alberta: CICT Calgary, CITV Edmonton, CISA Lethbridge;

(3) East of Alberta: CFSK Saskatoon, CKND Winnipeg, CIII Toronto / Ottawa, CHCH Hamilton, CIHF Saint John New-Brunswick and CIHF Dartmouth (News), CIHF Halifax.

The dissenting Member, Mr. Daniel Charbonneau, is of the opinion that one single bargaining unit would be appropriate for collective bargaining.

Pursuant to sections 18.1(3) and 18.1(4) of the Code, the Board retains jurisdiction to determine any outstanding issues in this matter, including aspects of issues pertaining to the collective agreements, exclusions and inclusions and final description of the new bargaining units.

The Board strongly encourages the parties to reach a settlement on the outstanding issues and offers the assistance of its mediation services in order to help the parties resolve this matter in a cooperative and constructive fashion.

Louise Fecteau
Vice-Chairperson

c.c.: Mr. Harvey K. Farysey (CIRB - Vancouver)
/sc