

GLOBAL ADVISORY COMMITTEE
Update and Summary of Legal Proceedings at CIRB

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The purpose of this document is to update all members of GAC of the status of the proceedings before the Canada Industrial Relations Board and the positions taken by the CEP and CanWest Global.

Background

1. On April 25, 2008, the CIRB issued its full reasons for Decision with respect to the bargaining unit structure. In effect, that Decision created three bargaining units: BC, Alberta, and the “rest of Canada” (the East).
2. In that decision, the Board also directed the parties to meet to discuss the issues that remain outstanding, such as the scope of the bargaining units, inclusions and exclusions and which collective agreements apply to the various units.
3. The CEP has filed an application for reconsideration of the decision creating the three bargaining units. That application is still pending.
4. The CEP also filed a “technological change” application in relation to the Maritimes and applied for an order allowing it to negotiate in relation to the labour relations implications of the implementation of the Broadcast Centres. That application, too, remains outstanding; no decision has been reached.
5. In the meantime, the Employer purported to serve notice to bargain in relation to the Eastern Unit only.
6. The CEP has on a number of occasions invited the Employer to meet to discuss scope and inclusions, but the Employer has refused to meet to discuss these issues and insists on general collective bargaining in the East.

Recent Applications

7. On June 19, 2008, the Employer complained to the CIRB that the Union has failed to bargain.
8. In response, the Union filed its own complaint alleging that the Employer had failed to do what the Board had directed it to do – that is, meet to discuss scope and other outstanding issues that arose as a result of the decision to fashion three bargaining units.
9. No decision has yet been made with respect to either the Employer’s complaint or the CEP’s complaint.

Case Management Meeting

10. In the meantime, the Board scheduled a case management meeting for Wednesday, August 20th and 21st in Vancouver, in order to deal with the issues that remain in the wake of the

bargaining units decision and the Union's complaint that the Employer had failed to meet to discuss those issues. The Board's agenda was to "find a way to move the matters forward".

11. At the outset of the case management meeting, the Board presented the parties with a series of options, ranging from proceeding directly to a hearing on the scope issues, to scheduled negotiations with the assistance of the Board as mediator. The parties were asked to comment.

12. The Employer took the position that it would discuss scope issues, but would only agree to do so if those discussions were in the context of general collective bargaining. The Employer asked the Board to direct the parties to engage in general collective bargaining (starting in the East) and also asked the Board to maintain a role as mediator.

13. The Union took the position that the discussions regarding scope, et cetera, must logically precede any collective bargaining (how do you bargain on behalf of a bargaining unit when you do not know who is in the unit?) and asked the Board to direct the parties to engage in those discussions, per its earlier decision. The Union declined to have the authors of the bargaining units decision play any mediation role.

14. The Union also took the position that there should be a single hearing on the scope issue; alternatively, the B.C. hearing should proceed first as the Broadcast Centres had been more fully implemented in the West and thus the scope issues were more apparent.

15. Hearing those positions, the Board decided to schedule three separate "scope" hearings, as follows:

- a. Eastern Unit: December 10– 12, 2008 and, if necessary, January 27-30, 2009 (in Vancouver)
- b. B.C. Unit: February 9 – 13, 2009 (in Vancouver)
- c. Alberta Unit: March 2– 5 (in Vancouver)

16. The Board then indicated that it would send a letter setting out the timeline for the filing of submissions and would advise of its decision with respect to whether the parties would be ordered to engage in either collective bargaining or scope discussions.

17. On August 22, 2008, the Board sent a letter setting out the following deadlines for the filing of submissions on the scope issues:

- a. Eastern Unit: October 15, 2008
- b. B.C. Unit: December 15, 2008
- c. Alberta Unit: January 30, 2009

Summary

18. In light of the above, our main focus over the next several months will be the hearings in relation to scope and applicable collective agreements. While some of this work has already been done (as we included a "scope" section in our 2006 submissions), a number of things have changed since those submissions were filed. We will be in touch with the various locals over the next few weeks to identify issues and gather additional information in order to update our submissions.