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August 8, 2008

VIA FAX AND COURIER

Canada Industrial Relations Board
410 - 757 West Hastings Street
Vancouver BC V6C 1A1

Attention: Mr. Tom Panelli, Regional Director (Registrar)

Dear Sirs:

Re: In the matter of the *Canada Labour Code (Part I - 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; 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 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; 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

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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)
Our Matter No. 0057857 KDL

We are counsel for the Employer. This is a response to the Union's Application dated July 17, 2008 pursuant to section 21 of the *Code* alleging that the Employer has "refused to participate in the procedure required under section 18.1(4) of the *Code*" as directed by the Board in its decision of November 6, 2007 and in its Reasons for Decision dated April 25, 2008.

We confirm that the information contained on page 2 in the Union's Application of July 17, 2008 is accurate and correct and therefore will not be repeated.

SUBMISSION OF FACT AND LAW

1. The entire history of the discussions and correspondence between the parties following the issuance of the Board's bottom line decision to reduce the then existing thirteen individual bargaining units to three broad-based regional bargaining units are contained in the Employer's Application pursuant to section 97(1) of the *Code* alleging violations of section 50(a) dated June 19, 2008 and its Reply dated July 21, 2008 in CIRB File No. 26921-C ("Unfair Labour Practice Submissions"). Unless the Board wishes us to recopy all of that material, we will assume it is not necessary.

2. At the outset, the Employer respectfully submits that section 21 cannot form the basis of an Application as alleged, or at all.

3. However, and in any event, a careful review of the Unfair Labour Practice Submissions and related and attached documents makes it abundantly clear that the Union's claims that the Employer has "refused to participate" in any procedure is without merit.

4. The most recent letter from the Employer to the Union dated June 23, 2008 (and therefore not attached to the Employer's Unfair Labour Practice as it post dated that Application) is attached as Appendix "1". The Employer's position, which has been repeated consistently since the Board issued its Decision, was conveyed once again to the Union.

5. In short, the Unfair Labour Practice Submissions, related and attached documents and the most recent letter attached as Appendix "1" make it clear that:

- (a) the Union will only meet with the Employer with a view to negotiating new collective agreements or scope if it is done on a national basis as if there were only one bargaining unit;
- (b) although the Union has lost in its attempt before the Board to obtain one national bargaining unit, it continues to insist, in direct contravention of the Board's decision, to act as if it had one;
- (c) despite the Union's submissions to the contrary, the Board has not imposed a set of phases that must be followed in a certain order and none are imposed by the *Code* or otherwise. Furthermore, there is no requirement imposed by the Board, the *Code* or otherwise that any remaining issues flowing from the Board's decision need to be dealt with to the exclusion of another;
- (d) moreover, there is no requirement imposed by the Board, the *Code* or otherwise to deal with one issue, such as the scope of the newly created bargaining units, before any other outstanding issue; and
- (e) in any event, the Employer has repeatedly advised both the Union and the Board that it is prepared to deal with all outstanding issues, including the scope of the new bargaining units in each separate bargaining unit.

6. However, the Employer acknowledges that it is not willing to do so jointly on a national basis as insisted upon by the Union as it is contrary to the Board's decision and, for the reasons outlined in the Unfair Labour Practice Submissions, inappropriate.

7. Contrary to the Union's assertions, the Employer is not disregarding the Board's direction to attempt to meet with the Union and come to a resolution on matters relating to scope. In fact, the Employer had repeatedly advised the Union that it is prepared to do so, in the context of collective bargaining, starting in the Eastern Canada Bargaining Unit. It is the Union that refuses to do so, unless the discussions encompass all three bargaining units at the same time. Not only is there no requirement to have these discussions in the context of all three separate bargaining units, it would be inappropriate to do so.

8. As the Board is aware, the issues facing the three separate units are significantly different. The scope, collective agreements, issues and interest of concern, economies and markets are all vastly different in the three separate bargaining units. For these reasons, the Board saw fit to create three separate bargaining units and not a single unit as proposed by the Union.

9. In the circumstances, not only are "joint negotiations" between the three newly created units not required, they would be counterproductive and inappropriate.

10. The Employer proposed to deal first with the Eastern Canada Bargaining Unit (both with respect to scope and collective bargaining) and then separately deal with the rest. Dealing with each bargaining unit separately is consistent with the Board's decision that there ought to be three separate units across the country.

REFUSAL TO ACCEPT THE BOARD'S DECISION

11. As we have previously submitted, the reality is, the Union simply refuses to accept the decision of the Board.

12. It continues to insist on bargaining as if had a single bargaining unit. It does not. There are three separate bargaining units that need to be dealt with separately.

13. As outlined above, the Employer is prepared to meet and discuss all outstanding issues, including the scope of each of the newly created bargaining units and collective bargaining in each of the individual and separate units.

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14. However, it is not willing to do so jointly on a national basis as insisted upon by the Union as it is contrary to the Board's decision and, for the reasons outlined above, inappropriate.

ORDER SOUGHT

15. In all of the circumstances, the Employer respectfully submits that the Union's application ought to be dismissed.

Yours truly,

THOMPSON DORFMAN SWEATMAN LLP

Per: ORIGINAL SIGNED BY
Keith D. LaBossiere

Keith D. LaBossiere

KDL/nb
Attachment
#814698

cc: Rogers Bobert
Att: Dan Rogers



Canwest

June 23, 2008

Rob Lumgair
#540 – 1199 West Pender Street
Vancouver, BC
V6E 2R1

Dear Mr. Lumgair;

Re: Your Correspondence of June 17, 2008

Formal notice to bargain for the Eastern Canada Bargaining Unit was first sent to the Union on January 14, 2008. Two subsequent formal notices to bargain were sent to the Union since that time. Your position is clear. You will simply not bargain for the Eastern Canada Bargaining Unit until the reconsideration application process is complete.

It has been over five months now that the Union has refused to engage in collective bargaining for the Eastern Canada Bargaining Unit in accordance with the provisions of the Canada Labour Code and the direction of the Canadian Industrial Relations Board. We have repeatedly reiterated our desire to commence bargaining immediately with respect to wages, benefits and other terms and conditions of employment for the new Eastern Canada Bargaining Unit. Had the Union not refused to meet and bargain with us over the past five months, you could have also bargained any and all of the issues you have raised with respect to the implementation of digital news in your Section 54 Application with the Board. In our view, this refusal to bargain has been and continues to be totally unacceptable and as a result, we have filed an unfair labour practice complaint against the Union. We regret having to take this step, but it appears that it is necessary in order to get the Union to the table to bargain on behalf of our employees.

The Canadian Industrial Relations Board has determined that there will be three (3) bargaining units. Although you have suggested that we "roll over all collective agreements for a period of 12 to 18 months", the Union is well aware that this is not bargaining with respect to the Eastern Canada Bargaining Unit at all. Regrettably, it appears that this is just the latest attempt by the Union to avoid dealing with the Board's determination of bargaining units. Unfortunately, such a position only delays negotiations between the parties and ultimately delays the negotiation of wage and benefit increases for our employees. This is truly unfortunate.

Moreover, as the Union is also well aware, bargaining for each of the respective three bargaining units will have to reflect the different work environments and local markets that exist in each of those bargaining units. For example, we have implemented benefit increases for our non-union staff in Toronto. The Union filed a grievance because Global Ontario did not automatically give these increases outside the collective bargaining process. The reality is that it was your refusal to bargain that precluded us



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Rob Lumgair
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from addressing this issue with our unionized employees. For your information, Global Ontario plans to offer a new Pension Plan to the non-union employees in September. Your continual delay in negotiating for the Eastern Canada Bargaining Unit just continues to prevent us from discussing these sorts of issues for the unionized employees.

The Eastern Canada Bargaining Unit has the most number of employees and collective agreements of the three bargaining units. We proposed dealing with the Eastern Canada Bargaining Unit first as they were the first group impacted by the digital news implementation and we wanted to address employee concerns in a timely manner. Unfortunately, as noted above, had you not refused to bargain over the past five months, we could have addressed these concerns.

The issues are different for all of the bargaining units and will have to be addressed in the separate negotiations. The Union's refusal to participate in collective bargaining with respect to the Eastern Canada Bargaining Unit and its demand its demand to roll over all collective agreements across the country only means that the parties cannot address some of these issues that are of direct concern to our employees. Rather than deal with the concerns of your members, you want to focus on trying to add new members to the bargaining unit through the labour board process. Unfortunately this position comes at the expense of existing members. In our view, such an approach is unfair and unacceptable. As we have repeatedly advised the Union, we are prepared to discuss the scope of the bargaining units in the context of collective bargaining. We are also of the view that your existing members who have been waiting for some time for new terms and conditions of employment ought to be the priority. It is unfortunate that you feel otherwise.

For all of the above reasons we hope that the union will reconsider its dogmatic refusal to participate in collective bargaining for the Eastern Canada Bargaining Unit.

Please contact me at your earliest convenience.

Yours truly,

A handwritten signature in black ink, appearing to read 'Carol Beisel'.

Carol Beisel

Cc David Lewington, Kim Power, Lea Baturin, CEP
General Managers
CEP Local Presidents