



Canadian Association of Broadcasters  
Association canadienne des radiodiffuseurs

June 18, 2008

*Via Epass*

Mr. Robert A. Morin  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, Ontario  
K1A 0N2

Dear Mr. Morin:

**Re: Broadcasting Public Notice CRTC 2008-43, Items 3 and 4: Applications by Persona Communications Corp. (Persona) to renew the Class 1 licences of its cable broadcasting distribution undertakings serving Delta and Sechelt/Gibsons, British Columbia**

1. The Canadian Association of Broadcasters (CAB) is the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private radio and television stations, networks, specialty, pay and pay-per-view services. The goal of the CAB is to represent and advance the interests of Canada's private broadcasters in the social, cultural and economic fabric of the country.
2. The CAB is pleased to submit these comments concerning the above-noted licence renewal applications by Persona.

**The need to ensure consistency with the new BDU framework during the next licence term**

3. The Commission recently reviewed the overall regulatory framework applicable to all broadcasting distribution undertakings (BDUs) in the context of a very comprehensive public proceeding on the distribution of programming services.
4. A number of important issues related to the BDU framework were canvassed during that proceeding. These included matters such as: the size and composition of the basic service; guidelines respecting the placement and grouping of basic service channels to avoid isolating individual basic channels in the midst of discretionary packages; revised policies respecting the distribution of distant Canadian and non-Canadian over-the-air services; the

incorporation of audit requirements and enhanced notification requirements in the *Broadcasting Distribution Regulations* (BD Regulations); and so on.

5. Within the next few months the Commission is expected to issue its policy findings, to be followed by a further process to determine the implementation details. The end result is expected to be revised policies and new BD Regulations governing the distribution of programming services, both Canadian and non-Canadian.
6. In this context, it is essential that the Commission not take any action as part of this licence renewal process that would have the effect of superseding the upcoming BDU framework determinations or exempting Persona from the application of that new framework.
7. In this regard, we note that Persona has applied for various conditions of licence that would be in effect for at least the first five years of the proposed new licence term.<sup>1</sup> **The CAB submits that, in making decisions on these licence renewal applications and imposing new conditions of licence, the Commission should do so in a manner that will allow it to review and revise, as required, those conditions of licence that are inconsistent with the new BDU framework to be established by the Commission.**

#### **The distribution of multiple sets of US 4+1 signals in Sechelt/Gibsons**

8. The CAB has reviewed the detailed channel listings for the Persona systems. The carriage of multiple sets of US 4+1 signals on the Sechelt/Gibsons system, originating from several different US markets, raises questions about Persona's compliance with the Commission's established policies respecting the distribution of a first and second set of US 4+1 signals.
9. In Sechelt/Gibsons, on the analog service, Persona distributes a set of US 4+1 signals originating from Seattle, Washington (with the exception of the FOX station, which originates in Tacoma). On the standard definition (SD) digital service, Persona distributes a second set of US 4+1 signals originating from Detroit, Michigan (with the exception of the FOX station which originates in Rochester, New York), and a third distinct set of US network signals (other than FOX) originating from Buffalo, New York. Finally, on its HD digital service, Persona distributes NBC, CBS and FOX stations from Seattle, plus ABC and PBS stations from Detroit.
10. On other words, for each of the US 4+1 networks distributed in Sechelt/Gibsons, Persona distributes stations originating from three distinct markets, contrary to Commission policy governing the distribution of the US 4+1 signals.
11. BDUs are generally permitted to distribute no more than two distinct sets of US 4+1 signals, the first set as part of the basic service and the second set as part of the optional digital service. The distribution of the Seattle signals on the analog service and the Detroit signals as part of Persona's digital SD service in Sechelt/Gibsons is consistent with this policy. The CAB submits, however, that the distribution of a third set of US 4+1 signals from Buffalo is not.

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<sup>1</sup> Pursuant to s. 9(1)(c) of the *Broadcasting Act*, the Commission may not amend a condition of licence on its own motion until five years have expired since the issuance or renewal of a licence.

12. Commission policy also permits the distribution of the upgraded HD versions of the SD US 4+1 services, provided that not less than 95% of the video and audio components of the HD and SD versions of the service are the same, exclusive of the commercial messages and of any part of the service carried on a subsidiary signal.<sup>2</sup> In Sechelt/Gibsons, this policy authorizes the distribution of the HD versions of the NBC and CBS Seattle stations, and the ABC and PBS Detroit stations, all of which are upgraded versions of authorized SD signals. The policy does not, however, authorize the distribution of the FOX Seattle HD station, since this originates from a different market than the FOX SD stations distributed in Sechelt/Gibsons.
13. The CAB is not aware of any condition of licence that would authorize Persona to distribute three sets of US 4+1 signals in Sechelt/Gibsons. We note, in fact, that the only relevant conditions of licence that Persona has applied for in the new licence term would authorize only the specific US 4+1 signals carried on the analog service plus, on a digital discretionary basis, “a second set of signals that provides the programming of the four U.S. commercial networks (CBS, NBC, ABC, FOX) and the non-commercial network PBS”.<sup>3</sup> These conditions of licence do not authorize the distribution of any US 4+1 signal originating from a third distinct market.
14. **The CAB urges the Commission to confirm its policy with respect to the distribution of multiple sets of US 4+1 signals, including SD and HD signals, and to require Persona to bring the Sechelt/Gibsons system into full compliance as soon as possible.**
15. The CAB appreciates the opportunity to participate in this licence renewal proceeding.

All of which is respectfully submitted this 18<sup>th</sup> day of June, 2008.

Sincerely,

*Original signed by:*

Jay Thomson  
Vice-President, Regulatory and Policy

c.c. Persona Communications Corp. (Email: [regulatory.matters@corp.eastlink.ca](mailto:regulatory.matters@corp.eastlink.ca))

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<sup>2</sup> Broadcasting Public Notice CRTC 2003-61 *The regulatory framework for the distribution of digital television signals*, paragraph 72.

<sup>3</sup> Persona licence renewal application, Appendix B, December 14, 2007.