



**CANWEST GLOBAL  
COMMUNICATIONS CORP.  
AND THE OTHER APPLICANTS  
LISTED ON SCHEDULE "A"**

**TENTH REPORT OF FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR OF THE APPLICANTS**

February 14, 2010

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CANWEST GLOBAL COMMUNICATIONS  
CORP. AND THE OTHER APPLICANTS LISTED ON SCHEDULE  
"A"

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IN ITS CAPACITY AS MONITOR**

**February 14, 2010**

**INTRODUCTION**

1. By Order of this Court dated October 6, 2009 (the "**Initial Order**") (a copy of which is attached hereto as **Appendix "A"**), Canwest Global Communications Corp. ("**Canwest Global**") and certain of its subsidiaries listed in **Schedule "A"** hereto (collectively the "**Applicants**") obtained protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**"). The Initial Order also granted relief in respect of certain affiliated partnerships of the Applicants listed in **Schedule "B"** hereto (collectively, the "**Partnerships**", and together with the Applicants, the "**CMI Entities**") and appointed FTI Consulting Canada Inc. ("**FTI**") as monitor (the "**Monitor**") of the CMI Entities. The proceedings commenced by the CMI Entities under the CCAA will be referred to herein as the "**CCAA Proceedings**".

## PURPOSE OF THIS REPORT

2. The purpose of this Tenth Report of the Monitor is to provide comments to this Honourable Court on the CMI Entities' request for an Order, *inter alia*:
  - (a) approving, in connection with the proposed equity investment by Shaw Communications Inc. ("**Shaw**") in Restructured Canwest Global (the "**Shaw Transaction**"):
    - (i) the Subscription Agreement between Canwest Global and Shaw dated February 11, 2010 (the "**Shaw Subscription Agreement**") together with a related term sheet incorporated into the Shaw Subscription Agreement (the "**Shaw Subscription Term Sheet**");
    - (ii) an amendment to the Original Recapitalization Support Agreement (the "**Support Agreement Amendment**") attaching an amended and restated recapitalization term sheet (the "**Amended Recapitalization Term Sheet**"); and
    - (iii) a support agreement between Canwest Global, the Ad Hoc Committee (as defined below) and Shaw (the "**Shaw Support Agreement**");
  - (b) authorizing and approving the entering into, execution and delivery of the Shaw Subscription Agreement, the Support Agreement Amendment, and the Shaw Support Agreement by Canwest Global and the performance by Canwest Global of these agreements in accordance with their terms and conditions;

- (c) declaring that the assets, property and undertaking of the CMI Entities are subject to the Termination and Expense Reimbursement Fee Charge (as defined and described below); and
  - (d) in the alternative to paragraphs 2(a), (b) and (c) above, sealing the Confidential Supplement to the Tenth Report of the Monitor until further Order of the Court.
3. This report should be read in conjunction with the affidavit of Thomas C. Strike sworn February 12, 2010 (the “**Strike Affidavit**”) as certain information contained in the Strike Affidavit has not been included herein in order to avoid unnecessary duplication. A copy of the Strike Affidavit will be available shortly on the Monitor’s website for the CCAA Proceedings.

#### **TERMS OF REFERENCE**

4. In preparing this report, FTI has relied upon unaudited financial information of the CMI Entities, the CMI Entities’ books and records, certain financial information prepared by, and discussions with, the CMI Entities’ management. FTI has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information and accordingly expresses no opinion or other form of assurance on the information contained in this report.
5. Capitalized terms not defined in this report are used as defined in the Pre-filing Report.

6. Unless otherwise stated, all monetary amounts contained in this report are expressed in Canadian dollars.

## **BACKGROUND**

### *Canwest*

7. Canwest carries on business through a number of subsidiaries and is Canada's largest publisher of English language daily and non-daily newspapers, and directly or indirectly owns, operates and/or holds substantial interests in free-to-air television stations, subscription-based specialty television channels, and websites in Canada.
8. Relief in the CCAA Proceedings was obtained by: Canwest Global, its principal operating subsidiary CMI, certain subsidiary corporations and partnerships of CMI that own and operate Canwest's free-to-air television broadcast business and certain Canadian subscription-based specialty television channels, and, at the time, The National Post Company/La Publication National Post.
9. Canwest Global's other television broadcasting divisions and/or subsidiaries are not Applicants in the CCAA Proceedings. On January 8, 2010, the entities in Canwest's newspaper publishing and digital media business in Canada (other than National Post Inc.) applied for and obtained protection under the CCAA.
10. The Initial Order provided for a stay of proceedings until November 5, 2009 (the "Stay Period"). By Orders dated October 30, 2009 and January 21, 2010, the Stay Period was extended until January 22, 2010 and March 31, 2010, respectively.

*Original Recapitalization Transaction*

11. The basis of a plan of arrangement for the CMI Entities under the CCAA (the “**Original Recapitalization Transaction**”) is a going concern recapitalization transaction, the terms and conditions of which were agreed upon following intensive and extended negotiations between the CMI Entities and the ad hoc committee (the “**Ad Hoc Committee**”) of the CMI Senior Subordinated Noteholders. The terms of the Original Recapitalization Transaction are set out in the CCAA Support Agreement (the “**Original Recapitalization Support Agreement**”) and the term sheet attached thereto (the “**Original Recapitalization Term Sheet**”).
  
12. The Original Recapitalization Support Agreement provides that the CMI Entities will pursue a plan of arrangement or compromise on the terms set out in the Original Recapitalization Term Sheet (the “**Original Plan**”) in order to implement the Original Recapitalization Transaction as part of this CCAA Proceeding. Pursuant to the Original Recapitalization Support Agreement, the CMI Entities were required to file the Original Plan within 30 days after the commencement of the CCAA Proceedings. This date was subsequently extended to November 30, 2009. On or about December 1, 2009, the Ad Hoc Committee consented to extending the deadline for preparation and filing of the Plan until 21 days prior to the meeting of creditors to consider the Original Plan.
  
13. The Original Recapitalization Transaction contemplated that, following emergence from CCAA protection, Restructured Canwest Global would be a public company listed on the Toronto Stock Exchange.

14. Pursuant to the Original Recapitalization Transaction, it was proposed, *inter alia*, that one or more Canadians (as defined in the CRTC Direction<sup>1</sup>) (the “**New Investors**”) will invest at least \$65 million in Restructured Canwest Global. The New Investors must qualify as Canadians in order to satisfy ownership requirements that apply to parent corporations of a corporation that is in receipt of a television licence from the Canadian Radio-television and Telecommunications Commission (the “**CRTC**”). The equity investment in Restructured Canwest Global must be on terms acceptable to CMI and the Ad Hoc Committee.
  
15. Further background information regarding the CMI Entities and the CCAA Proceedings is provided in, *inter alia*, the affidavit of John E. Maguire sworn October 5, 2009 (the “**Initial Order Affidavit**”), FTI’s pre-filing report dated October 5, 2009 (the “**Pre-filing Report**”) and subsequent reports of the Monitor, copies of which have been posted on the Monitor’s website for the CCAA Proceedings at <http://cfcanada.fticonsulting.com/cmi>.

#### **THE EQUITY SOLICITATION PROCESS**

16. On or about November 2, 2009, RBC Dominion Securities Inc. (“**RBC**”) commenced an equity solicitation process in order to identify potential New Investors that would satisfy the requirement of being Canadian for purposes of the CRTC Direction.
  
17. The equity solicitation process (described in the Strike Affidavit) was contemplated by the Original Recapitalization Transaction described in the Initial Order Affidavit.

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<sup>1</sup> *Direction to the CRTC (Ineligibility of Non-Canadians)*



The equity solicitation process was run by RBC and the Monitor was provided with periodic updates during the process.

## THE SHAW TRANSACTION

### *General*

18. Following RBC's equity solicitation process and extensive negotiations with Shaw (all as described in greater detail in the Strike Affidavit), the CMI Entities, in consultation with, *inter alia*, RBC, selected Shaw's bid as the best overall offer received.
19. The Shaw Transaction contemplates that Restructured Canwest Global will be either a restructured Canwest Global or a newly-created private company the shareholders of which would be comprised of Shaw (or a direct or indirect wholly-owned subsidiary of Shaw that is Canadian as defined in the CRTC Direction) and those CMI Senior Subordinated Noteholders and other participating creditors of Canwest Global that elected to receive equity of Restructured Canwest Global and that would otherwise hold a minimum of 5% of the equity of Restructured Canwest Global following the completion of the Shaw Transaction (the "**Participating Creditors**").
20. Participating Creditors, except the Consenting Noteholders (as such term is defined in the Strike Affidavit), can elect to receive cash payments to extinguish their interests to be affected pursuant to the plan of arrangement or compromise on the terms set out in the Support Agreement Amendment (the "**Shaw Plan**") equal to the value of the equity they would otherwise have received under the Recapitalization Transaction as

originally proposed. Subject to limited exceptions, Consenting Noteholders will elect to receive shares. Creditors that would hold less than 5% of the equity of Restructured Canwest Global following the completion of the Original Recapitalization Transaction (the “**Non-Participating Creditors**”) and existing shareholders of Canwest Global will receive cash payments to extinguish their interests to be affected pursuant to the Shaw Plan equal to the value of the equity they would otherwise have received under the Original Recapitalization Transaction, but using the higher implied equity value contained in the Shaw Plan. All such cash payments will be funded from the proceeds paid by Shaw for an additional commitment of equity shares of Restructured Canwest Global (the “**Additional Commitment**”) subject to the right of the members of the Ad Hoc Committee to elect to participate *pro rata* (based upon the *pro forma* ratio of equity in Restructured Canwest Global allocated to Shaw to equity allocated to the Ad Hoc Committee) with Shaw in the funding of the Additional Commitment.

21. The CMI CRA and RBC view Shaw’s bid as the best overall offer received by the CMI Entities, considering various criteria, including those communicated by RBC to the participants in the equity investment solicitation process for, *inter alia*, the following reasons:
  - (a) it provides significant value to Restructured Canwest Global in exchange for the equity investment;
  - (b) it will allow certain affected creditors to receive a cash distribution from the Shaw Plan as opposed to shares of a publicly traded company; and

- (c) it will provide a long term solution and stability for Canwest Global through the involvement of a strategic investor with significant experience in the media industry.
22. As referenced above, the Original Recapitalization Transaction was conditional upon an investment in Restructured Canwest Global in the minimum amount of \$65 million by New Investors which qualify as Canadians under the CRTC Direction. Such equity investment must also be on terms acceptable to, *inter alia*, the Ad Hoc Committee.
23. Shaw qualifies as a Canadian under the CRTC Direction. Shaw's bid also meets the minimum amount of the New Investor investment as outlined in the Original Recapitalization Term Sheet and is on terms acceptable to the Ad Hoc Committee. Therefore, completion of the Shaw Transaction would satisfy a significant condition to a successful restructuring of the CMI Entities.

*The Transaction Documents*

24. The terms and conditions of the Shaw Transaction are contained in the following documents negotiated between, *inter alia*, Shaw and the CMI Entities:
- (a) the Shaw Subscription Agreement, together with the Shaw Subscription Term Sheet;
  - (b) the Shaw Support Agreement; and

- (c) the Support Agreement Amendment together with the Amended Recapitalization Term Sheet.
25. Unredacted copies of the Shaw Support Agreement, the Shaw Subscription Agreement (together with the Shaw Subscription Term Sheet) and the Support Agreement Amendment without execution pages (collectively, the “**Transaction Agreements**”) together with a blackline of the Amended Recapitalization Term Sheet showing changes to the Original Recapitalization Term Sheet are attached as Appendices to the Confidential Supplement to the Tenth Report of the Monitor and are being filed on a confidential basis in order to ensure the integrity of the equity solicitation process and to protect Shaw, Canwest Global and the CMI Senior Subordinated Noteholders that consented to the Shaw Transaction. It is contemplated that following approval of the Transaction Agreements, if obtained, the Monitor will circulate copies of the Transaction Agreements (without execution pages) to the service list maintained in connection with the CCAA Proceeding and post same on its website maintained in connection therewith.
26. Subsequent to the finalization of the CMI Entities’ motion materials, the Monitor engaged in discussions with Canwest Global and Shaw in order to determine if there was a proactive way in which the parties could respond to anticipated information requests while still preserving the integrity of the investment solicitation process that had been undertaken. As a result of these discussions, Shaw and Canwest Global agreed that redacted versions of the Transaction Agreements removing the proposed transaction's economic terms could be made available to parties on the service list provided that such parties first agreed to appropriate confidentiality and standstill

restrictions until the Court makes an endorsement finally disposing of the CMI Entities' motion.

27. On February 11, 2010, the Board of Directors of Canwest Global, upon the recommendation of the Special Committee of the Board of Directors of Canwest Global, approved the Transaction Agreements. The Transaction Agreements have been executed by the respective parties thereto and, should the Order requested by the CMI Entities be granted, such agreements will become effective and binding.
28. The features of the Shaw Transaction and the non-financial terms and conditions of the Transaction Agreements are summarized in greater detail in the Strike Affidavit and, therefore, only certain features of the Transaction Agreements are referred to herein.

Amended and Restated Shareholders Agreement relating to CW Investments Co.

29. Completion of the Shaw Transaction is conditional upon, among other things, the Amended and Restated Shareholders Agreement relating to CW Investments Co. (the "**CW Investments Shareholders Agreement**") with GS Capital Partners VI Fund, L.P. and its affiliates (the "**GS Parties**"):
  - (a) being amended and restated or otherwise addressed in a manner agreed to by Shaw, Canwest Global and the Ad Hoc Committee, subject to CRTC approval, if required; or
  - (b) being disclaimed or resiliated in accordance with the provisions of the CCAA and the CMI Claims Procedure Order dated October 14, 2009.

30. Shaw, Canwest Global and the Ad Hoc Committee have agreed to jointly pursue in good faith an amendment and restatement of the CW Investments Shareholders Agreement with the GS Parties and have agreed to cooperate with each other in negotiations with the GS Parties. Each of Shaw, Canwest Global and the Ad Hoc Committee have further agreed to keep the other parties fully and timely informed concerning the development and progress of any such discussions.
31. A resolution of outstanding issues with the GS Parties with respect to the CW Investments Shareholders Agreement, whether through amendments or other means, is a material condition of the CMI Entities' successful emergence from CCAA protection on a going concern basis, whether pursuant to the Original Recapitalization Term Sheet or the proposed Shaw Transaction.
32. Reaching a successful resolution of the issues between the GS Parties, the Ad Hoc Committee and the CMI Entities continues to be a difficult process given the complexity of the issues involved. The introduction of other stakeholders into that negotiation may be a further complicating factor in these negotiations. The Monitor is advised that there were no preliminary discussions between Shaw and the GS Parties.
33. Canwest Global is not obligated under the Transaction Agreements to seek a disclaimer or resiliation of the CW Investments Shareholders Agreement. The Monitor has not received a request for its consent to such a disclaimer or resiliation nor has it formed a view as to whether such consent would be granted, if requested.

34. Following finalization and service of the CMI Entities' motion materials in connection with their motion to, *inter alia*, approve the Transaction Agreements and shortly before the Monitor was going to deliver this report, the Monitor received correspondence from counsel for the GS Parties wherein the GS Parties raised concerns regarding the equity solicitation process, the timing of the motion and the length of notice of same given to the GS Parties. A copy of said letter dated February 13, 2010 (together with the letter from Gerald Cardinale of the GS Parties to the Special Committee dated February 11, 2010 attached thereto) is attached to this report as **Appendix "B"**. The Monitor provided a copy of the correspondence to counsel for the Ad Hoc Committee and advised that delivery of this report would be delayed for a short period of time to allow a response if so disposed. Attached as **Appendix "C"** hereto is a copy of an e-mail dated February 14, 2010 received by the Monitor from counsel for the Ad Hoc Committee in connection with the correspondence from and concerns raised by the GS Parties.

#### Termination and Expense Reimbursement Fees

35. The Shaw Subscription Agreement provides for a \$5 million fee (the "**Termination Fee**") to be paid by Canwest Global to Shaw in the event that:
- (a) the Shaw Subscription Agreement is terminated by Shaw if the closing has not occurred on or before a date that is six months from the date of the Shaw Subscription Agreement (i.e., August 11, 2010) (the "**Outside Date**") solely because of a failure to satisfy certain closing conditions (relating to the "bring-down" of representations, warranties and covenants); or

(b) the Shaw Subscription Agreement is terminated by Canwest Global at any time prior to the implementation of the Recapitalization Transaction (the “**Effective Time**”) in order to enter into a definitive amendment and restatement of the CW Investments Shareholders Agreement with the GS Parties acceptable to both Canwest Global and the Ad Hoc Committee that is not acceptable to Shaw,

(each, a “**Termination Event**”).

36. In the event that a Termination Event has occurred, the Shaw Subscription Agreement provides that in addition to the Termination Fee, Canwest Global will reimburse Shaw in an amount up to \$2.5 million for any and all out-of-pocket fees and expenses incurred by Shaw or its affiliates in connection with the negotiation and entering into of the Shaw Subscription Agreement and the Shaw Transaction (the “**Expense Reimbursement Fee**”). The Expense Reimbursement Fee is also payable to Shaw upon closing of the Shaw Transaction.
37. The Shaw Subscription Agreement contemplates that Canwest Global’s obligation to pay the Termination Fee and the Expense Reimbursement Fee will be secured by a charge over all of the assets, property and undertaking of the CMI Entities (the “**Termination and Expense Fee Reimbursement Charge**”) ranking after all existing charges in existence as at the date of the Order granting the Termination and Expense Fee Reimbursement Charge.



Structure of the Shaw Transaction

38. As part of the equity solicitation process, RBC circulated to the Phase 2 Participants (as defined in the Strike Affidavit) a proposed form of subscription agreement that contained a “fiduciary out” provision that would allow Canwest Global to accept an offer that it determined in good faith to be superior to the offer submitted by the winning bidder, and thereafter (and following payment of a \$2.5 million topping fee) be released from its obligations to the winning bidder under the subscription agreement.
39. The Shaw Subscription Agreement does not contain this “fiduciary out” provision.
40. The Original Recapitalization Transaction contemplated Restructured Canwest Global emerging from CCAA Proceedings as a public company and affected creditors receiving equity in Restructured Canwest Global that would be listed on a stock exchange in Canada. As required by the Original Recapitalization Term Sheet, Canwest Global took the steps necessary to implement the Original Recapitalization Transaction, including by engaging RBC to undertake a comprehensive equity solicitation process. RBC proceeded on the basis that Restructured Canwest Global would emerge from the CCAA Proceedings as a public company and circulated a form of subscription agreement consistent with the Original Recapitalization Term Sheet. The Monitor is advised by RBC that it informed potential bidders that they were not obligated to submit bids consistent with the public company structure reflected in the Original Restructuring Term Sheet and had the flexibility to include in their bid alternative transaction structures.

41. The Shaw Transaction is structured differently than the Original Restructuring Transaction. Shaw's bid contemplates that Restructured Canwest Global will emerge from the CCAA Proceedings as a private company with a limited number of shareholders. Non-Participating Creditors will receive cash consideration in the Shaw Transaction, instead of shares of a publicly traded company as contemplated under the Original Recapitalization Transaction.

## CONCLUSIONS

42. The CMI Entities believe that the Transaction Agreements represent the best available transaction for the equity investment required by the Recapitalization Transaction and are a crucial step towards the finalization of a plan or arrangement of compromise.
43. As stated above, the CMI CRA and RBC view Shaw's bid as the best overall offer received by the CMI Entities, considering various criteria, including those communicated by RBC to the participants in the equity investment solicitation process.
44. The Shaw Transaction, if completed, will satisfy one of the major requirements of the Original Recapitalization Transaction, assist with the CMI Entities' successful emergence from CCAA protection and allow them to continue operating on a going concern basis thereby preserving, *inter alia*, their enterprise value for their numerous stakeholders.

45. The Monitor is advised that RBC, the Ad Hoc Committee (which must be satisfied with the terms of the equity investment in Restructured Canwest Global), the CMI CRA, the CMI Entities' senior management and the Special Committee support the Shaw Transaction.
46. The GS Parties have raised issues with respect to the process and the timing of the hearing of the CMI Entities' motion. It is anticipated that they will appear before the Court to make submissions with respect to the same.
47. Having regard to the recommendations of RBC and the CMI CRA, supported by the other parties as referred to herein, and having given consideration to the features of the Transaction Agreements described in greater detail above, the Monitor supports approval of the Transaction Agreements.

All of which is respectfully submitted this 14<sup>th</sup> of February, 2010.

**FTI Consulting Canada Inc.,**

in its capacity as the Monitor of Canwest Global Communications Corp. and the other Applicants listed in Schedule "A" and Partnerships listed in Schedule "B"

Per



Greg Watson  
Senior Managing Director

## Schedule "A"

### **The Applicants**

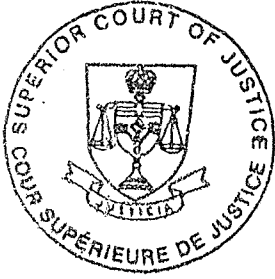
1. Canwest Global Communications Corp.
2. Canwest Media Inc.
3. 30109, LLC
4. 4501063 Canada Inc.
5. 4501071 Canada Inc.
6. Canwest Finance Inc./Financiere Canwest Inc.
7. Canwest Global Broadcasting Inc./Radiodiffusion Canwest Global Inc.
8. Canwest International Communications Inc.
9. Canwest International Distribution Limited
10. Canwest International Management Inc.
11. Canwest Irish Holdings (Barbados) Inc.
12. Canwest MediaWorks Turkish Holdings (Netherlands) B.V.
13. Canwest MediaWorks (US) Holdings Corp.
14. Canwest Television GP Inc.
15. CGS Debenture Holding (Netherlands) B.V.
16. CGS International Holdings (Netherlands) B.V.
17. CGS NZ Radio Shareholding (Netherlands) B.V.
18. CGS Shareholding (Netherlands) B.V.
19. Fox Sports World Canada Holdco Inc.
20. Global Centre Inc.
21. MBS Productions Inc.
22. Multisound Publishers Ltd.
23. National Post Holdings Ltd.
24. Western Communications Inc.
25. Yellow Card Productions Inc.

## Schedule "B"

### Partnerships

1. Canwest Television Limited Partnership
2. Fox Sports World Canada Partnership
3. The National Post Company/La Publication National Post

## APPENDIX "A"



Court File No. CV-09-8396-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) TUESDAY, THE 6<sup>TH</sup> DAY  
)  
MADAM JUSTICE PEPALL ) OF OCTOBER, 2009

IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CANWEST GLOBAL  
COMMUNICATIONS CORP. AND THE OTHER APPLICANTS  
LISTED ON SCHEDULE "A"

Applicants

INITIAL ORDER

THIS APPLICATION, made by Canwest Global Communications Corp. ("Canwest Global") and the other applicants listed on Schedule "A" hereto (collectively, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of John Maguire sworn October 5, 2009 and the Exhibits thereto (the "Maguire Affidavit") and the Report of the Proposed Monitor, FTI Consulting Canada Inc. ("FTI Consulting") (the "Monitor's Pre-Filing Report"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants and the partnerships listed on Schedule "B" hereto (the "Partnerships" and collectively with the Applicants, the "CMI Entities"), the Special Committee of the Board of Directors of Canwest Global (the "Special Committee"), FTI Consulting, the *ad hoc* committee (the "Ad Hoc Committee") of holders of 8% senior subordinated notes issued by Canwest Media Inc.

(“CMI”), CIT Business Credit Canada Inc. (“CIT”) and the management directors of the Applicants (the “**Management Directors**”), and on reading the consent of FTI Consulting to act as the Monitor.

### SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged so that this Application is properly returnable today and hereby dispenses with further service thereof.

### APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies. Although not Applicants, the Partnerships shall enjoy the benefits of the protections provided to the Applicants by this Order.

### PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that one or more of the Applicants, individually or collectively, shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**CMI Plan**”) between, *inter alia*, one or more of the CMI Entities and one or more classes of their applicable secured and/or unsecured creditors as the Applicants deem appropriate.

### POSSESSION OF CMI PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the CMI Entities shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the “**CMI Property**”). Subject to further Order of this Court, the CMI Entities shall each continue to carry on business in a manner consistent with the preservation of their respective businesses (collectively, the “**CMI Business**”) and the CMI Property. The CMI Entities shall each be authorized and empowered to continue to retain and employ the employees, advisors,



consultants, agents, experts, appraisers, valuers, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order, subject to the provisions on the payment of Assistants set forth in paragraph 7 hereof.

5. THIS COURT ORDERS that the CMI Entities shall be entitled to continue to utilize the CMI Entities’ centralized cash management system currently in place, as described in the Maguire Affidavit, or replace it with another substantially similar centralized cash management system satisfactory to the CMI DIP Lender (as defined below) (the “**CMI Cash Management System**”). Any present or future bank providing the CMI Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken thereunder, or as to the use or application by the CMI Entities of funds transferred, paid, collected or otherwise dealt with in the CMI Cash Management System, shall be entitled to provide the CMI Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the CMI Entities, pursuant to the terms of the documentation applicable to the CMI Cash Management System, and shall be, in its capacity as provider of the CMI Cash Management System, an unaffected creditor under the CMI Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the CMI Cash Management System.

6. THIS COURT ORDERS that the CMI Entities and the LP Entities (as defined in the Maguire Affidavit) shall continue to provide and pay for the Shared Services, as defined in the Maguire Affidavit, to each other and their other affiliated and related entities, in accordance with current arrangements, payment terms and business practises, except as to payment terms which may be amended to provide for revised timing of reconciliations, with such amendments to be subject to the approval of the CMI CRA (as defined below) and the prior consent of the Monitor or further Order of the Court. Notwithstanding any other provision in this Order, neither the CMI Entities nor the LP Entities shall modify, cease providing or terminate the provision of or payment for the Shared Services except with the consent of the other party receiving such Shared Services, the approval of the CMI CRA and the prior consent of the Monitor or further Order of

this Court, except with respect to portions of the CMI Business which may be shut down or reorganized in the manner contemplated by the Term Sheet attached to the Support Agreement (as defined below) attached as part of Exhibit "O" to the Maguire Affidavit.

7. THIS COURT ORDERS that, subject to availability under the CMI DIP Facility and the CMI DIP Definitive Documents (both as hereinafter defined) and subject to the applicable cash flow forecast approved by the Consenting Noteholders (as defined below) in accordance with the Use of Collateral and Consent Agreement (as defined below) (the "**Approved Cash Flow**"), the CMI Entities shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order, to the extent that such expenses are incurred or payable by the CMI Entities:

- (a) all outstanding and future wages, salaries and employee benefits (including, but not limited to, employee medical, dental, disability, life insurance and similar benefit plans or arrangements, incentive plans, share compensation plans and employee assistance programs and employee or employer contributions in respect of pension and other benefits), current service, special and similar pension and/or retirement benefit payments, vacation pay, commissions, bonuses and other incentive payments, payments under collective bargaining agreements, and employee and director expenses and reimbursements, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) compensation to employees in respect of any payments made to employees prior to the date of this Order by way of the issuance of cheques or electronic transfers that are subsequently dishonoured due to the commencement of these proceedings;
- (c) with the prior consent of the Monitor, all outstanding and future amounts owing to or in respect of individuals working as independent contractors or freelancers in connection with the CMI Business;

- (d) the reasonable fees and disbursements of any Assistants retained or employed by the CMI Entities in respect of these proceedings, at their standard rates and charges, including any payments made to Assistants prior to the date of this Order by way of the issuance of cheques or electronic transfers that are subsequently dishonoured due to the commencement of these proceedings;
- (e) any and all sums due and owing to Amex Bank of Canada (“**American Express**”), including, without limitation, amounts due and owing by the CMI Entities to American Express in respect of the Corporate Card Program and Central Billed Accounts Program as described in the Maguire Affidavit;
- (f) amounts owing for goods and services actually supplied to the CMI Entities, or to obtain the release of goods contracted for prior to the date of this Order:
  - (i) by distributors, broadcasting and/or production studios, suppliers or other entities, for television programming and other related products, with the prior consent of the Monitor, if, in the opinion of the CMI Entities, the supplier is critical to the business and ongoing operations of any of the CMI Entities;
  - (ii) by newsprint suppliers, newspaper distributors and other logistics suppliers, with the prior consent of the Monitor, if, in the opinion of the National Post Company, the supplier is critical to the business and ongoing operations of the National Post Company; and
  - (iii) by other suppliers, with the prior consent of the Monitor, if, in the opinion of the CMI Entities, the supplier is critical to the CMI Business and ongoing operations of any of the CMI Entities.

8. THIS COURT ORDERS that, subject to availability under the CMI DIP Facility and the CMI DIP Definitive Documents and subject to the Approved Cash Flow, and except as otherwise provided to the contrary herein, the CMI Entities shall be entitled but not required to pay all

reasonable expenses incurred by them in carrying on the CMI Business in the ordinary course from and after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the CMI Property or the CMI Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services;
- (b) payment, including the posting of letters of credit, for goods or services actually supplied or to be supplied to the CMI Entities following the date of this Order; and
- (c) payment of fees to the Canadian Radio-television and Telecommunications Commission, stock exchange listing fees and other regulatory or license fees necessary for the preservation of the CMI Property or the CMI Business,

For greater certainty, the CMI Entities shall not make any payments to or in satisfaction of any liabilities or obligations of the LP Entities, save and except for payments in respect of the Shared Services as contemplated herein.

9. THIS COURT ORDERS that the CMI Entities shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from the CMI Entities' employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the CMI Entities in connection with the sale of goods and services by the CMI Entities, but only where such Sales Taxes are accrued or

collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business, workers' compensation or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the CMI Business by the CMI Entities.

10. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with paragraph 12(c) of this Order, the CMI Entities shall pay all amounts constituting rent or payable as rent under their respective real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the applicable CMI Entity and the relevant landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any arrears relating to the period commencing from and including the date of this Order shall also be paid. Upon delivery of a notice of disclaimer or resiliation, the relevant CMI Entity shall pay all Rent owing by the applicable CMI Entity to the applicable landlord in respect of such lease due for the notice period stipulated in Section 32 of the CCAA, to the extent that Rent for such period has not already been paid.

11. THIS COURT ORDERS that, except as specifically permitted herein, the CMI Entities are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any one of the CMI Entities to any of their creditors as of this date; (b) to grant no security interests, trusts, liens, charges or encumbrances upon or in respect of any of the CMI Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the CMI Business.

## RESTRUCTURING

12. THIS COURT ORDERS that the CMI Entities shall, subject to such requirements as are imposed by the CCAA, subject to consulting with the CMI CRA, and subject to the terms of the Use of Collateral and Consent Agreement, the Support Agreement (as defined below), the CMI DIP Facility and the CMI DIP Definitive Documents, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their respective businesses or operations, to dispose of redundant or non-material assets, and to sell assets or operations not exceeding \$1,000,000 in any one transaction or \$5,000,000 in the aggregate, subject to paragraph 12<sup>(e)</sup>, if applicable; SWP -
- (b) terminate the employment of such of their employees or lay off or temporarily or indefinitely lay off such of their employees as the relevant CMI Entity deems appropriate on such terms as may be agreed upon between the relevant CMI Entity and such employee, or failing such agreement, to deal with the consequences thereof in the CMI Plan;
- (c) in accordance with paragraphs 13 and 14, with the prior consent of the Monitor or further Order of the Court, vacate, abandon or quit the whole but not part of any leased premises and/or disclaim or resiliate any real property lease and any ancillary agreements relating to any leased premises, in accordance with Section 32 of the CCAA, on such terms as may be agreed upon between the relevant CMI Entity and such landlord, or failing such agreement, to deal with the consequences thereof in the CMI Plan;
- (d) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor or further Order of the Court, such of their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the CMI Entities deem appropriate, in accordance with Section 32 of the CCAA, with such disclaimers or resiliations to be on such terms as may be agreed upon between the relevant CMI Entity and such counter-parties, or failing such agreement, to deal with the

consequences thereof in the CMI Plan, provided that the CMI Entities shall not be entitled to disclaim or resiliate, in whole or in part, the Use of Collateral and Consent Agreement or the Support Agreement; and

- (e) pursue all avenues of refinancing and offers for material parts of the CMI Business or the CMI Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or any sale (except as permitted by subparagraph (a), above),

all of the foregoing to permit the CMI Entities to proceed with an orderly restructuring of the CMI Business.

13. THIS COURT ORDERS that the CMI Entities shall provide each of the relevant landlords with notice of the relevant CMI Entity's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the CMI Entity's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the relevant CMI Entity, or by further Order of this Court upon application by the relevant CMI Entity on at least two (2) days notice to such landlord and any such secured creditors. If a CMI Entity disclaims or resiliates the lease governing such leased premises in accordance with paragraph 12(c) of this Order, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the CMI Entity's claim to the fixtures in dispute.

14. THIS COURT ORDERS that if a notice of disclaimer or resiliation is delivered by a CMI Entity, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the relevant landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the relevant CMI Entity and the Monitor 24 hours' prior

written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the CMI Entity in respect of such lease or leased premises and such landlord shall be entitled to notify the CMI Entity of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE CMI ENTITIES OR THE CMI PROPERTY**

15. THIS COURT ORDERS that until and including November 5, 2009, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the CMI Entities, the Monitor or the CMI CRA or affecting the CMI Business or the CMI Property, except with the written consent of the applicable CMI Entity, the Monitor and the CMI CRA (in respect of Proceedings affecting the CMI Entities, the CMI Property or the CMI Business), the CMI CRA (in respect of Proceedings affecting the CMI CRA), or with leave of this Court, and any and all Proceedings currently under way against or in respect of the CMI Entities or the CMI CRA or affecting the CMI Business or the CMI Property are hereby stayed and suspended pending further Order of this Court. In the case of the CMI CRA, no Proceeding shall be commenced against the CMI CRA or its directors and officers without prior leave of this Court on seven (7) days notice to Stonecrest Capital Inc.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

16. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the CMI Entities, the Monitor and/or the CMI CRA, or affecting the CMI Business or the CMI Property, are hereby stayed and suspended except with the written consent of the applicable CMI



Entity, the Monitor and the CMI CRA (in respect of rights and remedies affecting the CMI Entities, the CMI Property or the CMI Business), the CMI CRA (in respect of rights or remedies affecting the CMI CRA), or leave of this Court, provided that nothing in this Order shall (i) empower the CMI Entities to carry on any business which the CMI Entities are not lawfully entitled to carry on, (ii) exempt the CMI Entities from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

17. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the CMI Entities, except with the written consent of the relevant CMI Entity and upon consultation with the CMI CRA and the consent of the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

18. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with a CMI Entity or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all programming supply, computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the CMI Business or a CMI Entity, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the CMI Entities, and that the CMI Entities shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the CMI Entities in accordance with normal payment practices of the CMI Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable

CMI Entity (upon consultation with the CMI CRA) and the consent of the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

19. THIS COURT ORDERS that, notwithstanding anything else contained herein, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the CMI Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

20. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers (or their estates) of the Applicants with respect to any claim against such directors or officers that arose before the date hereof and that relates to any obligations of the CMI Entities whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the CMI Entities, if one is filed, is sanctioned by this Court or is refused by the creditors of the CMI Entities or this Court.

#### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

21. THIS COURT ORDERS that the Applicants shall jointly and severally indemnify their directors and officers from all claims, costs, charges and expenses relating to the failure of any of the CMI Entities, after the date hereof, to (i) make payments in respect of the CMI Entities of the nature referred to in subparagraphs 7(a), 9(a), 9(b) and 9(c) of this Order, and (ii) make payments of amounts in respect of the CMI Entities for which the directors and officers are statutorily liable, which they sustain or incur by reason of or in relation to their respective capacities as directors and/or officers of the Applicants except to the extent that, with respect to any officer or

director, such officer or director has actively participated in the breach of any related fiduciary duties or has been grossly negligent or guilty of wilful misconduct. For greater certainty, the indemnity provided by this paragraph 21 shall not indemnify such directors or officers from any costs, claims, charges, expenses or liabilities properly attributable to the LP Entities.

22. THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the “**CMI Directors’ Charge**”) on the CMI Property, which charge shall not exceed an aggregate amount of \$20,000,000, as security for the indemnity provided in paragraph 21 of this Order. The CMI Directors’ Charge shall have the priority set out in paragraphs 55 and 57 herein.

23. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary (a) no insurer shall be entitled to be subrogated to or claim the benefit of the CMI Directors’ Charge and (b) the Applicants’ directors and officers shall only be entitled to the benefit of the Director’s Charge to the extent they do not have coverage under a directors and officers insurance policy.

24. THIS COURT ORDERS that, notwithstanding any other provision of this Order, the terms and conditions with respect to any release and discharge of the Charges (as defined herein) shall be satisfactory to the CMI Entities, the Management Directors (with respect to the CMI Directors’ Charge), the Monitor and the Ad Hoc Committee.

#### **APPOINTMENT OF MONITOR**

25. THIS COURT ORDERS that FTI Consulting is hereby appointed pursuant to the CCAA as the Monitor of the CMI Entities, an officer of this Court, to monitor the CMI Property and the CMI Entities’ conduct of the CMI Business with the powers and obligations set out in the CCAA and as set forth herein and that the CMI Entities and their shareholders, officers, directors and Assistants shall advise the Monitor of all material steps taken by the CMI Entities pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations.

26. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the CMI Entities' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the CMI Entities, the CMI Property, the CMI Business, and such other matters as may be relevant to the proceedings herein; *and with respect to any payments made pursuant to paragraph 7(f)(iii) herein;* <sup>MP</sup>
- (c) assist the CMI Entities, to the extent required by the CMI Entities, in their dissemination to the CMI DIP Lender, the Ad Hoc Committee and their respective counsel of financial and other information, as agreed to between the CMI Entities and the CMI DIP Lender or the Ad Hoc Committee, as applicable, which may be used in these proceedings, including reporting on a weekly basis to the CMI DIP Lender and the Ad Hoc Committee;
- (d) advise the CMI Entities in their preparation of the CMI Entities' cash flow statements and reporting required by the CMI DIP Lender and the Ad Hoc Committee, which information shall be reviewed with the Monitor and delivered to the CMI DIP Lender, the Ad Hoc Committee and their respective counsel in compliance with the CMI DIP Definitive Documents, or as otherwise agreed to by the CMI DIP Lender or the Ad Hoc Committee, as applicable;
- (e) assist the CMI CRA in the performance of its duties as set out in the CMI CRA Agreement (as defined below);
- (f) advise the CMI Entities in their development and implementation of the CMI Plan and any amendments to the CMI Plan;
- (g) assist the CMI Entities, to the extent required by the CMI Entities, with the holding and administering of creditors' or shareholders' meetings for voting on the CMI Plan, as applicable;

- (h) have full and complete access to the CMI Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the CMI Entities, to the extent that is necessary to adequately assess the CMI Entities' business and financial affairs or to perform its duties arising under this Order;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (j) monitor and, if necessary, report to the Court on any matters pertaining to the provision of the Shared Services in accordance with paragraph 6 of this Order; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

27. THIS COURT ORDERS that the Monitor shall not take possession of the CMI Property and shall take no part whatsoever in the management or supervision of the management of the CMI Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the CMI Business or the CMI Property, or any part thereof.

28. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the CMI Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing

herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the CMI Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. THIS COURT ORDERS that the Monitor shall provide any creditor of a CMI Entity with information provided by the CMI Entity in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by a CMI Entity is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the applicable CMI Entity may agree.

30. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

31. THIS COURT ORDERS that the Monitor, counsel to the Monitor, counsel to any of the CMI Entities, counsel and the financial advisor to the Special Committee, counsel to the Management Directors, RBC Dominion Securities Inc. (the "Financial Advisor"), counsel to the Ad Hoc Committee and the financial advisor to the Ad Hoc Committee (together with counsel to the Ad Hoc Committee, the "**Committee Advisors**") shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to or subsequent to the date of this Order, by any of the CMI Entities, to the extent that such fees and disbursements relate to services provided to the CMI Entities or, in the case of the Committee Advisors, to the Ad Hoc Committee, as part of the costs of these proceedings. FTI Consulting, the Financial Advisor, counsel to FTI Consulting, counsel to the CMI Entities, counsel and the financial advisor to the Special Committee and counsel to the Management Directors shall keep

separate accounts for services provided in respect of the CMI Entities and any services provided in respect of entities other than the CMI Entities. The CMI Entities are hereby authorized and directed to pay the accounts of the Monitor, the Financial Advisor, counsel to the Monitor, counsel to the CMI Entities, counsel and the financial advisor to the Special Committee, counsel to the Management Directors and the Committee Advisors on a weekly basis to the extent that such accounts relate to services provided to the CMI Entities, or, in the case of the Committee Advisors, the Ad Hoc Committee. The CMI Entities shall not be liable for and shall not pay any expenses, fees, disbursements or retainers of the Monitor, counsel to the Monitor, counsel to the LP Entities, counsel and the financial advisor to the Special Committee, counsel to the Management Directors or the Financial Advisor, to the extent that such expenses, fees, disbursements or retainers are not attributable to the CMI Entities.

32. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

33. THIS COURT ORDERS that the Monitor, counsel to the Monitor, counsel to the CMI Entities, counsel and the financial advisor to the Special Committee, counsel to the Management Directors, the CMI CRA, the Financial Advisor and the Committee Advisors shall be entitled to the benefit of and are hereby granted a charge on the CMI Property (the “**CMI Administration Charge**”), which charge shall not exceed an aggregate amount of \$15,000,000 as security for their reasonable professional fees and disbursements incurred at their respective standard rates and charges in respect of such services, both before and after the making of this Order in respect of these proceedings. The CMI Administration Charge shall have the priority set out in paragraphs 55 and 57 hereof.

#### **CHIEF RESTRUCTURING ADVISOR**

34. THIS COURT ORDERS that Hap S. Stephen be and is hereby appointed as Chief Restructuring Advisor of the CMI Entities in accordance with the terms and conditions of the agreement entered into between Canwest Global and Stonecrest Capital Inc. (“**Stonecrest**”,

collectively referred to herein with Hap S. Stephen as the “CMI CRA”) dated June 30, 2009 (as amended, the “CMI CRA Agreement”), effective as of the date of this Order.

35. THIS COURT ORDERS that the CMI CRA Agreement is hereby approved and given full force and effect and the CMI CRA is hereby authorized to retain counsel as set out in the CMI CRA Agreement.

36. THIS COURT ORDERS that the CMI Entities are authorized and directed to continue the engagement of the CMI CRA on the terms and conditions set out in the CMI CRA Agreement.

37. THIS COURT ORDERS that the CMI CRA shall not be or be deemed to be a director, officer or employee of any of the CMI Entities.

38. THIS COURT ORDERS that the CMI CRA and its directors and officers shall incur no liability or obligation as a result of Hap S. Stephen’s appointment pursuant to this Order, or the provision of services pursuant to the CMI CRA Agreement, save and except as may result from gross negligence or wilful misconduct on the part of the CMI CRA.

39. THIS COURT ORDERS that (i) the indemnification obligations of Canwest Global in favour of the CMI CRA and its officers and directors set out in the CMI CRA Agreement; and (ii) the payment obligations set out in the CMI CRA Agreement shall be entitled to the benefit of and form part of the CMI Administration Charge set out herein.

40. THIS COURT ORDERS that any claims of the CMI CRA under the CMI CRA Agreement shall be treated as unaffected in any plan of compromise or arrangement filed by the CMI Entities under the CCAA, any proposal filed by the CMI Entities under the *Bankruptcy and Insolvency Act of Canada* (the “BIA”) or any other restructuring.

#### DIP FINANCING

41. THIS COURT ORDERS that the Credit Agreement dated as of May 22, 2009 and amended as of June 15, 2009, June 30, 2009, July 17, 2009, July 31, 2009, August 14, 2009,



August 31, 2009, September 11, 2009 and September 23, 2009 (as so amended, the “**CIT Credit Agreement**”) between CMI, the Guarantors party thereto and CIT as agent and lender be and are hereby approved. For greater certainty, references herein to CIT shall include any permitted assignee pursuant to the CIT Credit Agreement.

42. THIS COURT ORDERS that the CMI Entities are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, pledges, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, and including the CIT Credit Agreement, the “**CMI DIP Definitive Documents**”), as are contemplated by the CIT Credit Agreement or as may be reasonably required by the CIT Credit Agreement, and all CMI DIP Definitive Documents executed and delivered prior to the date hereof be and are hereby approved. The CMI Entities are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations under and pursuant to the CMI DIP Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

43. THIS COURT ORDERS that the credit facility provided under the CIT Credit Agreement be and is hereby converted into a debtor-in-possession financing arrangement (the “**CMI DIP Facility**”) in accordance with the terms of the CIT Credit Agreement, provided that the aggregate principal amount of all borrowings under the CMI DIP Facility shall not exceed \$100,000,000. The CMI DIP Facility shall be on the terms and subject to the conditions set forth in the CIT Credit Agreement as attached to the Maguire Affidavit as Exhibit “F”, as the CIT Credit Agreement may be amended from time to time upon the written agreement of the parties thereto. CIT, in its capacity as lender under the CMI DIP Facility, shall be referred to herein as the CMI DIP Lender.

44. THIS COURT ORDERS that CMI is hereby authorized and empowered to obtain and borrow the amounts previously or hereinafter advanced pursuant to the CMI DIP Facility in order to finance the CMI Entities’ working capital requirements and other general corporate purposes and capital expenditures as contemplated by the CMI DIP Definitive Documents,

provided that borrowings under the CMI DIP Facility shall not exceed \$100,000,000 unless approved by the CMI CRA and permitted by further Order of this Court.

45. THIS COURT ORDERS that the CMI Entities shall notify counsel to the Ad Hoc Committee and the Monitor of any requested advance under the CMI DIP Facility.

46. THIS COURT ORDERS that the CMI DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**CMI DIP Charge**”) on the CMI Property, as security for any and all obligations of the CMI Entities under the CMI DIP Facility and the CMI DIP Definitive Documents (including on account of principal, interest, fees and expenses), which charge shall not exceed the aggregate amount owed to the CMI DIP Lender under the CMI DIP Definitive Documents advanced on or after the date of this Order. The CMI DIP Charge shall have the priority set out in paragraphs 55 and 57 hereof.

47. THIS COURT ORDERS that the deposit accounts containing cash collateral pledged to The Bank of Nova Scotia and referred to in Section 6.11 of the Collateral Agency Agreement (as defined below) as the “Cash Management Collateral Account” (the “**Excluded Accounts**”) shall not form part of the CMI Property, shall be excluded from the CMI DIP Charge, the KERP Charge, the Directors’ Charge and the Administration Charge, except as provided in paragraph 48 hereof, and shall remain subject to the existing liens in favour of The Bank of Nova Scotia in connection with the CMI Entities’ obligations to The Bank of Nova Scotia in connection with overdrafts and related liabilities arising from cash consolidation, electronic funds transfer arrangements, treasury, depository and cash management services or in connection with any automated clearing house transfers of funds in an aggregate amount not to exceed \$2,500,000 (the “**BNS Cash Management Obligations**”).

48. THIS COURT ORDERS AND DECLARES that notwithstanding any stay of proceedings imposed by this Order, The Bank of Nova Scotia shall be entitled to seize and dispose of any collateral on deposit in the Excluded Accounts and apply such proceeds to any and all outstanding BNS Cash Management Obligations, provided that, notwithstanding anything herein, upon payment and satisfaction of the BNS Cash Management Obligations in full and the

return of any remaining collateral in the Excluded Accounts to the CMI Entities, such collateral shall then form part of the CMI Property charged by the Directors' Charge, the Administration Charge, the KERP Charge and the DIP Lender's Charge.

49. THIS COURT ORDERS that the CMI DIP Charge is in addition to the existing security (the "**Existing Security**") in favour of CIBC Mellon Trust Company (the "**Collateral Agent**") pursuant to the Intercreditor and Collateral Agency Agreement dated as of October 13, 2005 among the CMI Entities and the Collateral Agent, as amended by the Credit Confirmation and Amendment to Intercreditor and Collateral Agency Agreement dated as of May 22, 2009, and as further amended by the Credit Confirmation and Amendment to Intercreditor and Collateral Agency Agreement dated as of October 1, 2009 (the "**Collateral Agency Agreement**"). All liabilities and obligations of the CMI Entities under the CIT Credit Agreement and the \$187,263,126 principal amount secured promissory note issued to Canwest MediaWorks Ireland Holdings ("**Irish Holdco**") by CMI (the "**Secured Note**") shall be secured by the Existing Security.

50. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the CMI DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the CMI DIP Charge or any of the CMI DIP Definitive Documents;
- (b) upon the occurrence of an event of default under the CMI DIP Definitive Documents (including, without limitation, the Existing Security solely to the extent that such Existing Security secures existing and future obligations under the CIT Credit Agreement) or the CMI DIP Charge, the CMI DIP Lender may cease making advances to the CMI Entities, and upon three (3) days notice to the CMI Entities and the Monitor, may exercise any and all of its rights and remedies against the CMI Entities or the CMI Property under or pursuant to the CMI DIP Definitive Documents and the CMI DIP Charge, including without limitation, to set off and/or consolidate any amounts owing by the CMI DIP Lender to any of

the CMI Entities against the obligations of any of the CMI Entities to the CMI DIP Lender under the CMI DIP Definitive Documents or the CMI DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against any of the CMI Entities and for the appointment of a trustee in bankruptcy of any of the CMI Entities, and upon the occurrence of an event of default under the terms of the CMI DIP Definitive Documents, the CMI DIP Lender shall be entitled to seize and retain proceeds from the sale of the CMI Property and the cash flow of the CMI Entities to repay amounts owing to the CMI DIP Lender in accordance with the CMI DIP Definitive Documents and the CMI DIP Charge, but subject to the priorities as set out in paragraphs 55 and 57 of this Order; and

- (c) the foregoing rights and remedies of the CMI DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of any CMI Entity or the CMI Property.

51. THIS COURT ORDERS AND DECLARES that, in respect of the CMI DIP Facility, the CMI DIP Definitive Documents, the CIT Credit Agreement and amounts borrowed under the CIT Credit Agreement, the CMI DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the CMI Entities, or any of them, under the CCAA, or any proposal filed by the CMI Entities, or any of them, under the BIA. Further, the stays of proceedings provided for herein shall not apply to the CMI DIP Lender or its rights under or in respect of the CIT Credit Agreement, the CMI DIP Facility or the CMI DIP Definitive Documents.

52. THIS COURT ORDERS that the CMI Entities are hereby authorized and empowered to take all steps and actions in respect of, and to comply with all of their obligations pursuant to, the Secured Note, the \$430,556,189 unsecured promissory note dated October 1, 2009 granted by CMI to Irish Holdco in respect of the amounts advanced by Irish Holdco to CMI (the “Unsecured Note”), the Use of Cash Collateral and Consent Agreement between certain of the

CMI Entities and certain members of the Ad Hoc Committee (the “**Consenting Noteholders**”) dated September 23, 2009 (the “**Use of Collateral and Consent Agreement**”), the CCAA Support Agreement between certain of the CMI Entities and the Consenting Noteholders dated October 5, 2009 (the “**Support Agreement**”) and such other agreements, security documents, guarantees and other definitive documents as may be executed in connection with any such matters.

53. THIS COURT ORDERS that notwithstanding anything to the contrary herein, the CMI Entities shall be required to comply with their obligations under the Use of Collateral and Consent Agreement and the Support Agreement. Prior to exercising any and all rights and remedies they may have against the CMI Entities under or in respect of the Use of Cash Collateral Agreement and the Support Agreement, in accordance with the terms of such agreements, the Consenting Noteholders shall be required to obtain a further order of the Court, other than in respect of contractual termination rights under the Support Agreement.

54. THIS COURT ORDERS that, upon reasonable notice to the CMI Entities, the advisors to the Ad Hoc Committee, CIT and CIT’s advisors shall, subject to books and records that are privileged, have clear and unfettered access to the books and records of the CMI Entities and such other information that the Ad Hoc Committee and/or CIT reasonably requests.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

55. THIS COURT ORDERS that the priorities of the CMI Directors’ Charge, the CMI Administration Charge, the CMI KERP Charge (as defined below) and the CMI DIP Charge, as among them and the Existing Security, solely to the extent that such Existing Security secures existing and future obligations under the CIT Credit Agreement, shall be as follows:

First – CMI Administration Charge;

Second – The Existing Security, solely to the extent that such Existing Security secures existing and future obligations under the CIT Credit Agreement;

Third – CMI DIP Charge; and

Fourth – CMI Directors’ Charge and CMI KERP Charge, save and except that these Charges shall be postponed in right of payment to the extent of the first \$85,000,000 payable under the Secured Note.

56. THIS COURT ORDERS that the filing, registration or perfection of the CMI Directors’ Charge, the CMI Administration Charge, the CMI KERP Charge and the CMI DIP Charge (collectively, the “Charges”) shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

57. THIS COURT ORDERS that, the CMI Directors’ Charge, the CMI Administration Charge, the CMI DIP Charge and the CMI KERP Charge shall constitute a charge on the CMI Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, “Encumbrances”) in favour of any Person, notwithstanding the order of perfection or attachment, except for any validly perfected purchase money security interest in favour of a secured creditor or any statutory Encumbrance existing on the date of this Order in favour of any Person which is a secured creditor, <sup>SRP</sup> if any, in respect of <sup>any of</sup> source deductions from wages, employer health tax, workers compensation, GST/QST, PST payables, vacation pay and banked overtime for employees, amounts under the Wage Earners’ Protection Program that are subject to a super priority claim under the BIA. <sup>SRP</sup> as defined in the CCAA ✓

58. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the CMI Entities shall not grant any Encumbrances over any CMI Property that rank in priority to, or *pari passu* with, any of the CMI Directors’ Charge, the CMI Administration Charge, the CMI KERP Charge or the CMI DIP Charge, unless the CMI Entities also obtain the prior consent of the Monitor, the CMI DIP Lender and the beneficiaries of the CMI Directors’ Charge, the CMI KERP Charge and the CMI Administration Charge, or upon further Order of this Court.

59. THIS COURT ORDERS that the CMI Directors' Charge, the CMI Administration Charge, the CMI KERP Charge, the CMI DIP Definitive Documents and the CMI DIP Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**"), the rights and remedies of the CMI DIP Lender under the CMI DIP Definitive Documents, the rights and remedies of Irish Holdco under the Secured Note and the rights and remedies of the Consenting Noteholders under the Use of Collateral and Consent Agreement and the Support Agreement shall not otherwise be limited or impaired in any way, subject to the provisions of paragraph 53 herein, by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the CMI Entities, or any of them, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the CIT Credit Agreement, the CMI DIP Definitive Documents, the Use of Collateral and Consent Agreement, the Support Agreement, the Secured Note or the Unsecured Note, shall create or be deemed to constitute a breach by any of the CMI Entities of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the CMI Entities entering into the CIT Credit Agreement or any other CMI DIP Definitive Documents, the creation of the Charges, or the execution, delivery or performance of the CMI DIP Definitive Documents; and

- (c) the CIT Credit Agreement, the CMI DIP Definitive Documents, the Use of Collateral and Consent Agreement, the Support Agreement, the Secured Note and the Unsecured Note, the payments made by the CMI Entities pursuant to the foregoing or pursuant to the terms of this Order, and the granting of the Charges, do not and will not constitute fraudulent preferences, fraudulent conveyances, oppressive conduct, settlements or other challengeable, voidable or reviewable transactions under any applicable law.

60. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the relevant CMI Entity's interest in such real property leases.

#### APPROVAL OF FINANCIAL ADVISOR AGREEMENT

61. THIS COURT ORDERS that the letter agreement dated December 10, 2008 between Canwest Global and the Financial Advisor, as amended by a letter agreement dated January 20, 2009 and a further letter agreement dated October 5, 2009, in the form attached as Exhibit "U" to the Maguire Affidavit (the "Financial Advisor Agreement"), is hereby approved and the CMI Entities are authorized and directed to make the payments contemplated thereunder in accordance with the terms and conditions of the Financial Advisor Agreement.

#### KEY EMPLOYEE RETENTION PLANS

62. THIS COURT ORDERS that the key employee retention plans (the "CMI KERPs"), in the forms attached to the Confidential Supplement to the Monitor's Pre-Filing Report (the "Confidential Supplement"), are hereby approved and the CMI Entities are authorized and directed to make the payments contemplated thereunder in accordance with the terms and conditions of the CMI KERPs.

63. THIS COURT ORDERS that the Confidential Supplement be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice which sets out the title

*and the letter agreement dated December 10, 2008 referred to in paragraph 61 herein*

*SNP*



of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

64. THIS COURT ORDERS that the key employees referred to in the CMI KERPs shall be entitled to the benefit of and are hereby granted a charge (the “**CMI KERP Charge**”) on the CMI Property, which charge shall not exceed an aggregate amount of \$5,900,000, to secure amounts owing to such key employees under the CMI KERPs.

#### **POSTPONEMENT OF ANNUAL GENERAL MEETING**

65. THIS COURT ORDERS that Canwest Global be and is hereby relieved on any obligation to call and hold an annual meeting of its shareholders until further Order of the Court.

#### **FOREIGN PROCEEDINGS**

66. THIS COURT ORDERS that the Monitor is hereby authorized, as the foreign representative of the CMI Entities, to apply for recognition of these proceedings as “Foreign Main Proceedings” in the United States pursuant to Chapter 15 of the *U.S. Bankruptcy Code*.

67. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, Australia, Ireland or in any other foreign jurisdiction, to give effect to this Order and to assist the CMI Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the CMI Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the CMI Entities and the Monitor and their respective agents in carrying out the terms of this Order.

68. THIS COURT ORDERS that each of the CMI Entities and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and any other Order issued in these proceedings.

**SERVICE AND NOTICE**

69. THIS COURT ORDERS that the CMI Entities or the Monitor shall (i) without delay, publish a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the CMI Entities of more than \$5,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a)(ii)(C) of the CCAA and the regulations made thereunder, provided that, for the purposes of this list, (i) with respect to the 8% senior subordinated notes issued by CMI, only the name and address of the indenture trustee of such notes and the aggregate amount owing in respect of such notes shall be listed and made publicly available and (ii) the Monitor shall not make the names and addresses of individuals who are creditors publicly available.

70. THIS COURT ORDERS that the CMI Entities and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, and any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the CMI Entities' creditors or other interested parties at their respective addresses as last shown on the records of the CMI Entities, and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

71. THIS COURT ORDERS that the CMI Entities, the Monitor, the CMI DIP Lender, the Ad Hoc Committee and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, in accordance with the E-filing protocol of the Commercial List to the extent practicable, and the Monitor may post a copy of any or all such materials on its website at <http://cfcanada.fticonsulting.com/cmi>.

**GENERAL**

72. THIS COURT ORDERS that the CMI Entities or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

73. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the CMI Entities, the CMI Business or the CMI Property.

74. THIS COURT ORDERS that any interested party (including the CMI Entities, the CMI DIP Lender, the Ad Hoc Committee and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided however that the CMI DIP Lender shall be entitled to rely on this Order as issued for all advances made under the CIT Credit Agreement and the CMI DIP Definitive Documents up to and including the date this Order may be varied or amended.

75. THIS COURT Orders that, notwithstanding the immediately preceding paragraph, no order shall be made varying, rescinding or otherwise affecting the provisions of this Order with respect to the CIT Credit Agreement or the CMI DIP Definitive Documents, unless notice of a motion for such order is served on the Monitor and the CMI Entities, the Ad Hoc Committee and the CMI DIP Lender, returnable no later than November 5, 2009.

76. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

OCT 06 2009

PER / PAR: 

Joanne Nicoara  
Registrar, Superior Court of Justice

## SCHEDULE "A"

### Applicants

1. Canwest Global Communications Corp.
2. Canwest Media Inc.
3. MBS Productions Inc.
4. Yellow Card Productions Inc.
5. Canwest Global Broadcasting Inc./Radiodiffusion Canwest Global Inc.
6. Canwest Television GP Inc.
7. Fox Sports World Canada Holdco Inc.
8. Global Centre Inc.
9. Multisound Publishers Ltd.
10. Canwest International Communications Inc.
11. Canwest Irish Holdings (Barbados) Inc.
12. Western Communications Inc.
13. Canwest Finance Inc./Financiere Canwest Inc.
14. National Post Holdings Ltd.
15. Canwest International Management Inc.
16. Canwest International Distribution Limited
17. Canwest MediaWorks Turkish Holdings (Netherlands) B.V.
18. CGS International Holdings (Netherlands) B.V.

19. CGS Debenture Holding (Netherlands) B.V.
20. CGS Shareholding (Netherlands) B.V.
21. CGS NZ Radio Shareholding (Netherlands) B.V.
22. 4501063 Canada Inc.
23. 4501071 Canada Inc.
24. 30109, LLC
25. CanWest MediaWorks (US) Holdings Corp.

## **SCHEDULE "B"**

### **Partnerships**

1. Canwest Television Limited Partnership
2. Fox Sports World Canada Partnership
3. The National Post Company/La Publication National Post

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C., 1985,  
c.C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
CANWEST GLOBAL COMMUNICATIONS CORP., AND THE OTHER APPLICANTS  
LISTED ON SCHEDULE "A"

Court File No:

APPLICANTS

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

Proceeding commenced at Toronto

**INITIAL ORDER**

**OSLER, HOSKIN & HARCOURT LLP**

Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8

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Fax: (416) 862-6666

Lawyers for the Applicants

F. 1114233

## APPENDIX "B"



Barristers & Solicitors  
Patent & Trade-mark Agents

McCarthy Tétrault

McCarthy Tétrault LLP  
Box 48, Suite 5300  
Toronto Dominion Bank Tower  
Toronto, ON M5K 1E6  
Canada  
Telephone: 416 362-1812  
Facsimile: 416 868-0673  
mccarthy.ca

**Kevin McElcheran**  
**Direct Line: 416 601-7730**

February 13, 2010

Stikeman Elliott LLP  
199 Bay Street  
5300 Commerce Court West  
Toronto ON M5L 1B9

**Attention: David R. Byers**

Dear Sirs:

**Re: Motion to approve Subscription Agreement**

Dear David,

We and our client GSCP are gravely concerned about the news report yesterday that CanWest has entered into a deal with Shaw and intends imminently to apply to the Court for approval of this deal. This is nothing short of a surprise attack that is in flagrant violation of the terms governing the discussions between GSCP and the noteholder committee that you have initiated and been an important part of, and in GSCP has participated in good faith. The noteholder committee should comply with their agreement – and the court proceeding should be deferred until they do – and the flawed process that has led to this very unfortunate breach must be remedied.

As you know, GSCP and the ad hoc committee of noteholders agreed that while discussions were being undertaken, “neither the Ad Hoc Committee nor Goldman Sachs shall initiate, or encourage any other person (including CanWest) to initiate, or accept, approve, or provide any consent to the initiation of, any proceeding (including the filing of any motion or affidavit or the taking of any step in furtherance of the disclaimer of any contract to which Goldman Sachs or an affiliate is a party) in any court with respect to the insolvency proceeding of CanWest.” The agreement provides that this standstill will expire seven days after written notice by either party that it has decided to terminate discussions.

While we and our client have been kept in the dark by CanWest and the noteholder committee about the events that led to yesterday’s announcement, it is regrettably obvious that the noteholder committee has utterly ignored these basic understandings – indeed, the noteholder committee’s support agreement with CanWest prohibits CanWest from filing any

proceedings that have not been accepted by the noteholder committee. We have not received any notice from the noteholder committee that it is terminating discussions – to the contrary, we attended a meeting this past Monday at your request with the noteholder committee. As you know, we also agreed at your request to another in-person meeting among the principals, which we proposed for this coming week.

The integrity of the process requires that no application for approval of the Shaw arrangement should be heard by the court until the noteholder committee provides written notice that it is terminating discussions and the seven-day period has run – to be perfectly clear, the proceedings should not even have been filed. However, GSCP is prepared during this period to speak directly with Shaw and the company about their proposal, first to understand it and then to see whether a consensual agreement can be reached.

Sadly, it is difficult to see this filing as anything other than perpetuation of the noteholder committee's and the company's continued efforts from the start to exclude GSCP from the process and force a fait accompli on GSCP. As these secret dealings underscore, the CanWest restructuring process is very poorly served by ceding control of the process to the noteholder committee. We think now is the time to correct this problem. Specifically (1) GSCP should not be restricted in any way from discussing the restructuring with Shaw or any other potential investor in CanWest, (2) CanWest should provide GSCP with full and complete information on any alternatives to Shaw that were considered and rejected by CanWest, and (3) on a go-forward basis CanWest should consult with and keep GSCP informed of all of its efforts to restructure the company. We have made these points to Canwest's board in the attached letter.

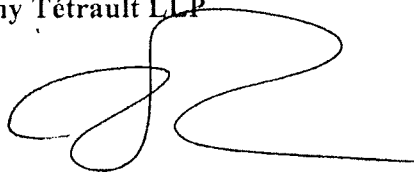
We want to emphasize that GSCP has not taken a position on the Shaw proposal, most obviously for the reason that neither Shaw nor CanWest have told us anything about it. GSCP is open to meeting with Shaw at any time and as soon as can be arranged.

This matter is of the utmost importance and we would like to understand as soon as possible your position on these critical issues.

Yours very truly,

**McCarthy Tétrault LLP**

Per:



c: G. Cardinale

---

Goldman, Sachs & Co. | 85 Broad Street | New York, New York 10004  
Tel: 212-902-6182 | Fax: 212-357-5505 | e-mail: gerry.cardinale@gs.com

Gerry Cardinale  
Managing Director  
Principal Investment Area

**Goldman  
Sachs**

February 11, 2010

VIA EMAIL

Members of the Special Committee of  
the CanWest Board of Directors

Re: CanWest Media restructuring

As you know, Goldman Sachs Capital Partners (GSCP), through its ownership interest in CW Investments, Inc. (CWI) and its Specialty TV business, is a key constituency for any restructuring of CanWest. This is reflected, among other things, in the express condition included in the noteholder's restructuring term sheet that GSCP agree to amendments of the CWI Shareholders Agreement.

Nonetheless, GSCP has been systematically excluded from participation in the marketing process that has been undertaken by the company due to the restrictive provisions of the company's agreement with the noteholders.

Continued exclusion of GSCP is an unnecessary capitulation to the narrow interests of the noteholders that is not in the best interests of the company and its constituents as a whole and does nothing but make needless litigation more likely. We do not know, for example, what the assumptions are regarding the proposed amendments to the CWI Shareholders Agreement that are being used to market the restructuring proposal. We are concerned that conducting negotiations with potential investors with only the noteholders' interests represented and considered will lead to nothing but a false conclusion that Canwest has no choice but to

February 11, 2010

Page 2

pursue risky legal theories to repudiate GSCP's rights for the benefit of shifting value to the noteholders.

We would like Canwest to address our concern by promptly including GSCP in discussions with potential investors, and by providing to us the details of the basis on which the potential investments have been solicited. We believe there are viable restructuring plans that do not rely on unnecessary litigation. Before the board reaches any conclusions with respect to its current process, it is essential that we have the opportunity to present our alternatives, as well as have input into the potential investments already solicited.

Further, we are requesting that GSCP be given adequate notice of, and an opportunity to discuss with the board, any consideration of repudiating the CWI Shareholders Agreement prior to any decision being made.

Including GSCP directly in the discussions, and opening the process to allow Canwest and its board to consider the interests of GSCP as well as the noteholders, is the only way to ensure that the interests of all stakeholders are properly considered and the full range of restructuring alternatives are evaluated, consistent with the responsibility of any board presiding over a CCAA process.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Cardinale". The signature is fluid and cursive, with the first letter of the first name being a large, stylized "G".

Gerald J. Cardinale

## APPENDIX "C"

## APPENDIX "C"

----- Original Message -----

From: Chadwick, Robert <rchadwick@goodmans.ca>

To: David Byers; 'greg.watson@fticonsulting.com' <greg.watson@fticonsulting.com>

Sent: Sun Feb 14 08:52:03 2010

Subject: Cw

We understand the Monitor has received a letter from counsel to GS dated February 13. We have reviewed the letter on receipt and spoken directly to counsel to GS Saturday night to correct various factual misunderstandings with respect to terms of our ongoing confidential discussions. We do not believe there are any restrictions or terms which affect directly or indirectly CW's motion to seek approval of the equity sponsor transaction on February 19, 2010. We also believe it is important to get your Monitor's report out to all stakeholders as soon as possible and we want to ensure there is no delay in any parties receiving its terms. Our clients have worked with CW and its advisors as part of the CCAA equity process run by RBC to find an equity sponsor in order to move forward in the CCAA proceedings in an efficient and effective manner. We believe the Shaw transaction is in best interests of CW and its stakeholders and we fully support its approval asap and as scheduled next Friday. Our clients remain committed to find consensual solutions with respect to Canwest and its ongoing CCAA proceedings. We are available to speak with the Monitor to address any additional matters or to assist in any way to ensure the paramount goal of getting CW out of its current CCAA proceedings and return it to a market leader is completed without delay. Regards Rob Chadwick

Robert J. Chadwick  
Goodmans LLP  
Direct Line: 416-597-4285  
Email: rchadwick@goodmans.ca  
Fax: 416-979-1234

Goodmans LLP  
333 Bay Street, Suite 3400  
Toronto, Ontario M5H 2S7  
General: 416-979-2211

\*\*\*\*\* Attention \*\*\*\*\*

This communication is intended solely for the named addressee(s) and may contain information that is privileged, confidential, protected or otherwise exempt from disclosure. No waiver of confidence, privilege, protection or otherwise is made. If you are not the intended recipient of this communication, please advise us immediately and delete this email without reading, copying or forwarding it to anyone.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS  
AMENDED

Court File No. CV-09-8396-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANWEST  
GLOBAL COMMUNICATIONS CORP. AND THE OTHER APPLICANTS LISTED ON SCHEDULE "A"

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceeding commenced at Toronto

TENTH REPORT OF FTI CONSULTING CANADA  
INC., IN ITS CAPACITY AS MONITOR

STIKEMAN ELLIOTT LLP  
Barristers & Solicitors  
5300 Commerce Court West  
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Toronto, Canada M5L 1B9

**David R. Byers LSUC #: 22992W**

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Lawyers for the Monitor