

CANADA / JUDGMENT

Glacier Media Inc. (Re)

2020 BCSC 591

COURT

Supreme Court of British Columbia

DECIDED

17 April 2020

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2020 BCSC 591 Glacier Media Inc. (Re)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Glacier Media Inc. (Re),

2020 BCSC 591

Date: 20200417

Docket: S203953

Registry: Vancouver

In the Matter of the

Canada Business Corporations Act R.S.C. 1985, c. C-44, as amended

Glacier Media Inc.

Petitioner

- and -

Docket: S203954

Registry: Vancouver

In the Matter of the

Canada Business Corporations Act R.S.C. 1985, c. C-44, as amended

GVIC Communications Corp.

Petitioner

Before: The Honourable Madam Justice Fitzpatrick

Reasons for Judgment

Counsel for the Petitioners, GVIC Communications Corp. and Glacier Media Inc.:

T.M. Tomchak

Place and Date of Written Submissions:

Vancouver, B.C.

April 14, 2020

Place and Date of Judgment:

Vancouver, B.C.

April 17, 2020

- [1] Two petitions have been filed by Glacier Media Inc. ("Glacier") and GVIC Communications Corp. ("GVIC") (collectively, the "Companies") in these separate proceedings. Both seek an order extending the time with respect to holding their 2020 Annual General Meeting (the "2020 AGM") at any time during 2020, up to and including December 31, 2020.

Background Facts

- [2] The Companies are corporations existing under the Canada Business Corporations Act, R.S.C 1985, c. C-44 (the "CBCA"). Both have their head offices in Vancouver, BC. The Companies' business involves the operation of information and marketing solutions.
- [3] Glacier has approximately 125,213,346 common shares issued and outstanding, as of March 30, 2020. GVIC has approximately 4,208,345 Class B shares and 296,216,686 Class C shares (net of intercompany holdings) as of the same date.
- [4] Glacier is a reporting issuer in BC, Alberta, Ontario, Quebec and Nova Scotia. GVIC is a reporting issuer in BC, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, PEI and Newfoundland.
- [5] The Companies trade their common shares on the Toronto Stock Exchange (the "TSX").
- [6] The Companies held their last annual and special meeting on June 25, 2019.
- [7] On March 27, 2020, the Companies issued their 2019 Management Discussion and Analysis and annual audited financial statements for the fiscal year ended December 31, 2019. In addition, on that date, the Companies issued a news release concerning their year end results.

- [8] By the time of the filings by the Companies in late March 2020, the COVID-19 pandemic had already taken hold around the world. The Companies' news release identified impacts already being felt by them as a result of the pandemic, while noting that the true extent of those impacts were not yet known. The Companies noted in the news release that they were taking a wide variety of measures to protect the health of its staff, help reduce the spread of the virus and maintain the Companies' businesses as best as possible.
- [9] The Companies have identified two broad concerns regarding the holding of their respective 2020 AGMs:
- a) The logistical difficulties of holding the 2020 AGMs in light of government restrictions concerning large gatherings and social distancing; and
 - b) The difficulties in preparing the necessary management information circular (the "Circular") and distributing the Circular before the 2020 AGMs, where the impact of the COVID-19 pandemic on the Companies' operations is not known. In normal circumstances, the Circular would include management's recommendations on various matters affecting the Companies' operations. The Circular would address a variety of matters on which the shareholders would vote at the 2020 AGMs, including the election of directors and executive compensation.

Legal Framework

- [10] Section 464 of the TSX Company Manual provides that a company must hold its annual shareholder meeting within six months from the end of its fiscal year, or at such earlier time as is required by applicable legislation.
- [11] This means that the Companies are required to hold their 2020 AGMs on or before the end of June 2020.
- [12] Various provincial governments have responded to the difficulties posed by the COVID-19 pandemic by providing relief in respect of the timing of AGMs for companies incorporated under provincial legislation. However, no such legislative fix has yet been implemented under the CBCA, nor has the Director advised that it will grant exemptions to extend the time for holding an AGM for CBCA companies.
- [13] On March 23, 2020, the TSX issued a bulletin which provides certain temporary relief to companies as a result of the COVID-19 pandemic. Among other things, the TSX is permitting companies to hold their 2020 AGM on any date in 2020 up to and including December 31, 2020 regardless of a company's fiscal year end. However, the bulletin also stated that the TSX continues to expect companies to comply with applicable legislation regarding the timing of their 2020 AGM.
- [14] Section 133 of the CBCA provides for the calling of an AGM as follows:
- (1) The directors of a corporation shall call an annual meeting of shareholders

- (a) not later than eighteen months after the corporation comes into existence; and
- (b) subsequently, not later than fifteen months after holding the last preceding annual meeting but no later than six months after the end of the corporation's preceding financial year.

...

- (3) Despite subsection (1), the corporation may apply to the court for an order extending the time for calling an annual meeting.

[15] In addition, the CBCA allows for summary applications:

248 Where this Act states that a person may apply to a court, the application may be made in a summary manner by petition, originating notice of motion, or otherwise as the rules of the court provide, and subject to any order respecting notice to interested parties or costs, or any other order the court thinks fit.

Discussion

[16] I agree with the Companies that an extension of the time for the filing of their respective 2020 AGMs is appropriate in the circumstances.

[17] Firstly, it is beyond dispute that the COVID-19 pandemic is an extraordinary and unprecedented event in our collective and individual histories. The effects of this pandemic have reached into every corner of the world and into every person and organizations' very existence. Like everyone else, the Companies have been affected and the Companies' management is wondering what lies before them, both in the short and long term.

[18] In those circumstances, I accept the Companies' submissions that management is not currently in a position to advise as to how the Companies' operations should be conducted into the future and what proposals should be put to the shareholders in that respect.

[19] I also accept that there are practical difficulties in even commencing the necessary preparations toward the holding of an AGM, including preparing the necessary Circular, given the staffing issues arising from the pandemic.

[20] Finally, there are very significant issues as to whether the 2020 AGMs could be held in any event, or at the very least, held in a manner that would achieve the salutary objectives of convening an AGM:

- a) On March 16, 2020, the BC Provincial Health Officer issued an order under the Public Health Act, S.B.C. 2008, c. 28 prohibiting the gathering of people in excess of 50 people at a place. That order expires on May 30, 2020, although it is very possible that it will be extended depending on the course of the pandemic, which is still underway;

- b) Travel restrictions remain in place that would likely prevent any shareholder travelling to attend the AGM. The BC public is being told to stay at home to the extent possible to avoid the transmission of the COVID-19 virus in our communities. Many people are being required to self-isolate. If a shareholder resides outside of Canada, that person would be subject to the current ban on foreign nationals entering Canada and where the Canada/U.S. border is similarly closed save for non-essential travel;
 - c) Even if there was some level of physical attendance by shareholders at an AGM, social distancing would be difficult to maintain in a closed meeting space;
 - d) Many organizations are being creative in developing means of holding meetings relating to the conduct of their affairs. The use of proxies that can be mailed and sent in is a usual feature of such meetings. Others are attempting to facilitate attendance at events through the Internet via a "virtual" meeting. In that event, some meetings are being conducted through an Internet portal that allows persons to call in and participate in that manner (although such means must be an option under a corporations' bylaws, and I have no information in that regard with respect to the Companies' bylaws as to whether such a meeting is even authorized). However, there are inherent limitations even if such a "virtual" meeting is held. Many people want to attend important meetings, such as an AGM, in person and these other means may not provide the same level of participation that a person would otherwise obtain. This is particularly true of persons who are not computer literate or those who do not even own a computer; and
 - e) Many of these difficulties in convening such an AGM have to real potential to disenfranchise many shareholders from attending the AGM in a meaningful way and participating in the affairs of the Companies, including its ongoing governance. Such ability to participate in the affairs of a company is a fundamental right of a shareholder.
- [21] As noted by the Companies, management has posted the financial results of their 2019 year end in the usual fashion, such that shareholders have received that level of information, current to that year. In addition, the Companies have indicated an intention to announce the results of these applications in a press release, which is appropriate.

Disposition

- [22] I grant an order in the respective petition proceedings that Glacier and GVIC may hold their AGMs at any time during 2020, up to and including December 31, 2020.

"Fitzpatrick J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/20/05/2020BCSC0591.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/glacier-media-inc-re-2020>

Prepared on 25 October 2026 · Esheria