



Broadcasting Decision CRTC 2006-628

Ottawa, 15 November 2006

Newcap Inc.
Fort McMurray, Alberta

*Application 2005-0250-2
Public Hearing at Edmonton, Alberta
19 June 2006*

Classic Hits FM radio station in Fort McMurray

In this decision, the Commission approves an application by Newcap Inc. for a broadcasting licence to operate a new English-language commercial FM radio station in Fort McMurray.

Background

1. At the 19 June Public Hearing in Edmonton, the Commission considered nine applications for broadcasting licences to operate new radio stations to serve Fort McMurray. The applicants were as follows:
 - Clear Sky Radio Inc. (Clear Sky)¹
 - Standard Radio Inc. (Standard)
 - Vista Radio Ltd. (Vista)²
 - Golden West Broadcasting Ltd. (Golden West)
 - Harvard Broadcasting Inc. (Harvard)
 - King's Kids Promotions Outreach Ministries Inc. (King's Kids)
 - Newcap Inc. (Newcap)
 - Radio CJVR Ltd. (CJVR)
 - Touch Canada Broadcasting Inc. (Touch Canada)
2. The Commission's determination that the Fort McMurray market can support the introduction of three new commercial FM radio stations is set out in *Licensing of new radio stations to serve Fort McMurray, Alberta – Introduction to Broadcasting Decisions CRTC 2006-627 to 2006-630*, Broadcasting Public Notice CRTC 2006-145 (Public Notice 2006-145) of today's date. That public notice also summarizes the rationale underlying the Commission's approval of the applications by Harvard, Newcap and King's Kids to serve Fort McMurray.³

¹ 1182743 Alberta Ltd. changed its name to Clear Sky Radio Inc. on 6 September 2006.

² On 31 August 2006, Vista Radio Ltd., CFCP Radio Ltd., CCIR Holdings Ltd. and Coast Radio Ltd. amalgamated under the name Vista Radio Ltd.

³ The Fort McMurray market is currently served by O.K. Radio Group Ltd., which operates CKYX-FM and CJOK-FM.

3. In *Denial of applications proposing radio service for Fort McMurray, Alberta*, Broadcasting Decision CRTC 2006-630, also dated today, the Commission has denied the competing applications for broadcasting licences to operate new radio stations in Fort McMurray by Clear Sky, Standard, Vista, Golden West, CJVR and Touch Canada.

The application

4. Newcap is a wholly-owned subsidiary of Newfoundland Capital Corporation Limited, which is ultimately controlled by Mr. Harold R. Steele. Newcap operates over 70 radio stations in Atlantic Canada, Ontario, Manitoba and Alberta.
5. Newcap proposed to establish an English-language, commercial FM radio station that would operate at 100.5 MHz (channel 263B) with an effective radiated power (ERP) of 20,000 watts. The proposed station would offer a Classic Hits music format targeting listeners between 25 and 54 years of age, with a particular focus on listeners between 35 and 54 years of age, slightly skewed towards a male listening audience. The bulk of the music programming would be gold-based music from the 1970's, 1980's and 1990's. A minimum of 35% of all musical selections from content category 2 (Popular Music) broadcast both during the broadcast week and between 6 a.m. and 6 p.m. Monday through Friday would be Canadian selections, which conforms to the minimum requirements set out in the *Radio Regulations, 1986*.
6. The proposed station would broadcast approximately 3 hours and 30 minutes of news programming. In all, Newcap anticipated offering a total of approximately 13 hours of structured and non-structured spoken word programming per week. All of its programming would be locally produced.
7. At the hearing, the Commission explored with Newcap its plans for the use of voice-tracking, automation or live-to-air programming. Newcap indicated that all programming broadcast on the proposed station during the broadcast week would be “live-to-air” programming.
8. Newcap indicated that it would not participate in the Canadian talent development (CTD) plan created by the Canadian Association of Broadcasters. Under this plan, a radio licensee serving a market the size of Fort McMurray is required to contribute a minimum of \$400 in each broadcast year to eligible third parties for the development of Canadian talent. Instead, Newcap indicated that it would devote a minimum of \$525,000 over seven consecutive broadcast years in direct expenditures for CTD, representing a contribution of \$75,000 per broadcast year. Annual expenditures would be allocated as follows:
 - \$37,500 to the Radio Starmaker Fund.
 - \$37,500 to support Fort McMurray area schools.

Newcap proposed to equally divide CTD funding to Fort McMurray area schools between the public and private school boards and indicated that for each school board, it would earmark the funding as follows:

- \$8,000 for instruments.
- \$5,000 for festivals, of which \$2,000 would be reserved for scholarships within these festivals.
- \$5,750 for curriculum-related items including sheet music, instruction books and music stands.

Interventions

9. The Commission received numerous interventions in support of this application. The Commission also received interventions offering general comments, submitted by Vista Broadcast Group Inc. (Vista Broadcast), the Canadian Independent Record Production Association (CIRPA) and O.K. Radio Group Ltd. (O.K. Radio).⁴
10. Vista Broadcast expressed its concern that Newcap may have received an unwarranted advantage in being allowed to file revised financial projections at the public hearing. In addition, Vista Broadcast cautioned that the applicant is “woefully underestimating the Fort McMurray market,” noting, for example, that the current rate for a 30-second commercial is approaching \$50.00 whereas Newcap projects their rate per minute to be \$22.00. Finally, Vista Broadcast points to Newcap’s total operating expenses of \$1,283,000 as being the lowest projected by all the applicants. Noting that the applicant’s expenses do not provide a breakdown of their total cost per employee, Vista Broadcast stated that the accuracy of Newcap’s anticipated salary costs could not be assessed.
11. Regarding all of the applications for licences to serve Fort McMurray, CIRPA raised general issues pertaining to Canadian content, ownership, diversity of formats and the development of Canadian talent. CIRPA especially noted the lack of support for the Foundation Assisting Canadian Talent on Recordings (FACTOR) and for other established third party organizations focused on the development of Canadian talent. CIRPA noted that it is not generally supportive of private funds administered by stations, station-sponsored talent contests and training programs which, in its view, provide little tangible benefit to the recording industry. Moreover, CIRPA indicated that it is not supportive of Canadian “artist spotlight” programs, if they are relegated to low-listener time periods. CIRPA also indicated its desire for clearer definitions of “emerging” and “developing” artists in the context of the proposed CTD initiatives.

⁴ The Commission is considering an application (2006-0616-3) by Rogers Broadcasting Limited to acquire from O.K. Radio Group Ltd. the assets of the following radio programming undertakings in Alberta: CJOK-FM and CKYX-FM and its transmitter CJOK-FM-1 Fort McMurray; CFGP-FM Grande Prairie and its transmitters CFGP-FM-1 Peace River and CFGP-FM-2 Tumbler Ridge; and CHDI-FM and CKER-FM Edmonton. This application was scheduled on the agenda of the 11 September 2006 Québec Public Hearing.

12. As it pertains to Newcap's application, CIRPA expressed its view that support for FACTOR should have been made available in the application, and that Newcap's support for music education would have been better allocated to an established organization such as the Canadian Academy of Recording Arts and Sciences (CARAS).
13. O.K. Radio, in its intervention, submitted an economic report that it had commissioned, entitled "Economic Overview of Fort McMurray, Alberta".⁵ This report highlights various challenges to be faced by any new market entrant, including population growth, employment rates, average salaries according to certain economic sectors, average cost of lodging and planned economic activities. O.K. Radio submitted this report in order to make the Commission and the applicants aware of the unique circumstances associated with operating a business in Fort McMurray.

Applicant's replies

14. In reply to Vista Broadcast, Newcap noted that it had filed revised financial projections due to the withdrawal of its application to amend the licence of the television programming undertaking CITL-TV Lloydminster, originally scheduled to be heard at this public hearing.⁶ Newcap also stated that it is confident that the revenue projections stated in its application are achievable.
15. Newcap did not reply to the interventions by CIRPA or O.K. Radio.

Commission's analysis and determinations

16. In Public Notice 2006-145, the Commission set out its determination that, on the basis of the strength of the Fort McMurray market and the current profitability of Fort McMurray commercial radio stations, the Fort McMurray radio market could support the introduction of three new commercial radio stations to serve Fort McMurray, including the station proposed by Newcap, without an undue negative impact on existing stations.
17. The Commission considers that Newcap's proposal for a Classic Hits music format targeting listeners between 25 and 54 years of age, with a particular focus on listeners between 35 and 54 years of age, slightly skewed to a male audience, would promote additional programming diversity in Fort McMurray. The proposed station would broadcast approximately 3 hours and 30 minutes of news programming. In all, Newcap would offer a total of approximately 13 hours of structured and non-structured spoken word programming per week. Moreover, all of its programming would be locally produced. The Commission also notes that Newcap would provide a new radio voice and increase competition in the Fort McMurray radio market.

⁵ Prepared by Myers Norris Penny, 15 May 2006.

⁶ Broadcasting Notice of Public Hearing CRTC 2006-4-3, 29 May 2006.

18. In the area of CTD, Newcap indicated that it would devote \$525,000 over seven consecutive broadcast years, upon commencement of operations, including \$262,500 to support music programs in local area schools. This would represent a contribution of \$75,000 per broadcast year.
19. The Commission is mindful of the inherent challenges to be faced by the new market entrants both in terms of the high costs of establishing and maintaining a local radio service in Fort McMurray and in terms of competing against an incumbent operator and its two FM stations. Accordingly, the Commission is of the opinion that these new entrants require the expertise and resources of established broadcasters. In the Commission's view, Newcap, as an established radio broadcaster, provides the expertise and resources necessary to compete in Fort McMurray.
20. The Commission has considered all of the interventions received with respect to Newcap's application. Noting the concerns expressed by CIRPA, the Commission considers that the initiatives proposed by the applicant are eligible as CTD contributions and will provide valuable support for the development of Canadian talent, including at the local level. With respect to the intervention by Vista Broadcast, the Commission considers that the revised financial projections filed by Newcap are reasonable and serve to support the applicant's proposed business plan.
21. In light of all of the above, the Commission **approves** the application by Newcap Inc. for a broadcasting licence to operate an English-language, commercial FM radio programming undertaking in Fort McMurray. The new station will operate at 100.5 MHz (channel 263B) with an ERP of 20,000 watts.
22. The Commission notes the applicant's commitments related to its contributions to CTD. A **condition of licence** is set out in the appendix to this decision requiring the applicant to adhere to those commitments. The Commission expects the applicant to contribute a total of \$525,000 over a period of seven consecutive broadcast years upon commencement of operations, as proposed.
23. The Commission also notes the commitment made by Newcap that all programming broadcast on the new station will be "live-to-air" programming, and expects the applicant to adhere to this commitment throughout the licence term.
24. The licence to be issued to Newcap will expire 31 August 2013. It will be subject to the **conditions** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition number 5, as well as to the **conditions** set out in the appendix to this decision.

Cultural diversity

25. In *Commercial Radio Policy, 1998*, Public Notice CRTC 1998-41, 30 April 1998, the Commission encouraged broadcasters to reflect Canada's cultural diversity in their programming and employment practices.

26. The Commission expects Newcap to reflect the cultural diversity of Canada in its programming and employment practices.

Issuance of the licence

27. The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
28. The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.
29. Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 15 November 2008. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Employment equity

30. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

Appendix to Broadcasting Decision CRTC 2006-628

Conditions of licence

1. The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition number 5.
2. Upon commencement of operations, the licensee shall contribute, in each broadcast year, a minimum of \$75,000 to the development and promotion of Canadian talent, allocated as follows:
 - \$37,500 to the Radio Starmaker Fund, and
 - \$37,500 to be split equally between the public and private Fort McMurray school boards, for the purpose of purchasing instruments, supporting festivals, providing scholarships and purchasing curriculum-related items such as sheet music, instruction books and music stands.

The Commission reminds the licensee that all Canadian talent development (CTD) expenditures must be made in accordance with the Commission's policy on qualifying contributions to CTD, as set out in Appendix 1 to *An FM policy for the nineties*, Public Notice CRTC 1990-111, 17 December 1990.