



Broadcasting Decision CRTC 2007-410

Ottawa, 30 November 2007

CTV Limited

Halifax, Nova Scotia

Application 2007-0198-9, received 6 February 2007

Public Hearing in Kelowna, British Columbia

30 October 2007

CJCH Halifax - Conversion to FM band

*The Commission **approves** an application by CTV Limited (CTV) for a broadcasting licence to operate a new English-language FM radio programming undertaking in Halifax to replace its AM station CJCH, subject to CTV's sale of its voting interest in Metro Radio Group Inc., the licensee of CKUL-FM Halifax.*

Introduction

1. CTV Limited (CTV) filed an application for a broadcasting licence to operate a new English-language commercial FM radio programming undertaking in Halifax, Nova Scotia to replace its AM station CJCH. The proposed FM station would operate at 101.3 MHz (channel 267C1) with an effective radiated power of 100,000 watts.
2. CTV indicated that the new FM station would continue to operate within an oldies musical format targeted to adults between the ages of 35 and 64. Approximately 8 hours of the broadcast week would be devoted to local spoken word programming including news, sports, traffic and weather as well as entertainment information and event reports. In each broadcast week, the station would air just over one hour of news, of which a minimum of 50% would be local.
3. The Commission received one comment on this application.
4. The Commission finds that the primary issue to be considered in its evaluation of this application is whether the proposed conversion of CJCH to the FM band would be consistent with the Commission's Common Ownership Policy set out in the Public Notice 1998-41 (Commercial Radio Policy 1998).

Commission's analysis and determination

5. CTV currently owns CJCH and CIOO-FM Halifax. CTV also holds a 50% voting interest in Metro Radio Group Inc. (Metro), licensee of CKUL-FM Halifax (formerly CIEZ-FM Halifax). Newcap Inc. (Newcap) holds the remaining 50% voting interest in Metro¹. Pursuant to a management agreement between the shareholders, Newcap manages and controls the station.
6. Under the Commission's Common Ownership Policy, a person may own or control up to two FM stations in the same language in a radio market, such as Halifax, with eight commercial stations operating in a given language. Because CJCH's conversion to FM would see CTV exceed the limit of two FM stations in the same language, CTV indicated its willingness to divest its voting interest in Metro.
7. In light of the above, the Commission **approves** the application by CTV Limited for a broadcasting licence to operate a new English-language FM radio station in Halifax to replace its AM station CJCH, subject to CTV's sale of its voting interest in Metro Radio Group Inc. The Commission requires CTV to file, by **31 March 2008**, an application, on behalf of Metro, to transfer CTV's 50% voting interest in Metro and to transfer effective control of Metro to a party that complies with the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998, and *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*, P.C. 1995-2108, as amended by P.C. 1997-629, 22 April 1997.
8. The terms and **conditions of licence** for the new FM station are set out in the appendix to this decision.

Canadian content development

9. In Broadcasting Public Notice 2006-158 (Commercial Radio Policy), the Commission set out a new approach to the development and promotion of Canadian artists. In order to reflect a new emphasis on development initiatives that lead to the creation of audio content for broadcast using Canadian resources, the Commission replaced the expression "Canadian talent development" (CTD) with "Canadian content development" (CCD). Under the new policy, each radio station holding a commercial radio licence is required to make a basic annual CCD contribution based on its total broadcast revenues in the previous broadcast year. This requirement will be reflected in the *Radio Regulations, 1986* (the Regulations). Until such time, it will be implemented by a transitional condition of licence, as set out in the appendix to this decision. This condition of licence will expire upon the coming into force of the amendments to the Regulations.

¹ Broadcasting Decision 2007-106, 4 April 2007, denied Newcap's request for an exemption to the Common Ownership Policy and directed Newcap to file an application, on behalf of Metro, to transfer 50% of Newcap's voting interest in Metro within six months of the date of the decision. On 9 August 2007, Newcap filed an application indicating that it was negotiating with CTV and requesting an extension to the time limit to dispose of its interest in Metro.

10. The Commission notes CTV's commitments over and above this basic amount. Specifically, CTV indicated that, in addition to the required basic annual contributions, it would, by condition of licence, allocate a contribution of \$44,000 per year in each of the first three years of operation and \$41,855 annually in years four to seven. CTV proposed to direct a total of \$21,500 per year during the first three years and \$19,355 during the last four years to FACTOR. The remainder would be directed to an eligible initiative as follows: \$22,500 yearly to the East Coast Music Awards.
11. The Commission reminds CTV that any development initiatives that have not been allocated to specific parties by condition of licence must be allocated to the support, promotion, training and development of Canadian musical and spoken word talent, including journalists. Parties and initiatives eligible for CCD funding are identified in paragraph 108 of Broadcasting Public Notice 2006-158.

Simulcast period and revocation of AM licence

12. As set out in the appendix to this decision, the licensee is authorized to simulcast the programming of the new FM station on CJCH for a transition period of three months following the commencement of operations of the FM station, or for any other period granted by the Commission subsequent to the submission of an application. Pursuant to sections 9(1)(e) and 24(1) of the *Broadcasting Act*, and consistent with the licensee's request, the Commission **revokes** the licence for CJCH effective at the end of the simulcast period.

Employment equity

13. 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

Related documents

- *CFDR Halifax – Conversion to FM band*, Broadcasting Decision CRTC 2007-106, 4 April 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998

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 2007-410

Terms and conditions of licence

Terms

Issuance of the broadcasting licence to operate an English-language commercial FM radio programming undertaking in Halifax, Nova Scotia

The licence will expire 31 August 2014.

The station will operate at 101.3 MHz (channel 267C1) with an effective radiated power of 100,000 watts.

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.

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.

Furthermore, the licence will be issued and it will only be effective at such time as:

- the applicant has filed and the Commission has approved an application, on behalf of Metro Radio Group Inc. (Metro), to transfer 50% of CTV Limited's voting interest in Metro and to transfer the effective control of Metro to a party that complies with the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998, and *Direction to the CRTC (Ineligibility to Hold Broadcasting Licences)*, P.C. 1995-2108, as amended by P.C. 1997-629, 22 April 1997; and
- 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 30 November 2009. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

1. The licence shall 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 of licence number 5.
2. The licensee shall, as an exception to the percentage of Canadian musical selections set out in 2.2(8) and 2.2(9) of the *Radio Regulations, 1986*:
 - a) in those periods of content category 2 music (Popular music) consisting exclusively of music composed before 1956, devote a weekly average of 2% or more of its musical selections from content category 2 broadcast during those periods to Canadian selections broadcast in their entirety.
 - b) in those periods of content category 2 music consisting of 90% or more, but not exclusively, of music composed before 1956, devote a weekly average of 10% or more of its musical selections from content category 2 broadcast during those periods to Canadian selections broadcast in their entirety.

The licensee shall ascertain the date of composition of the selections it broadcasts. The licensee shall also identify periods of pre-1956 station-originated programming whenever requested by the Commission and submit information concerning the station's broadcasting of Canadian music.

3. The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), in any broadcast week where at least 90% of the musical selections from content category 2 (Popular music) that it broadcasts are selections released before 1 January 1981:
 - a) devote, in that broadcast week, a minimum of 30% of its musical selections from content category 2 to Canadian selections broadcast in their entirety; and
 - b) devote, between 6:00 a.m. and 6:00 p.m., in the period beginning on Monday of that week and ending on Friday of the same broadcast week, a minimum of 30% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

The licensee shall specify, on the music lists it provides to the Commission, the year of release for all musical selections it broadcasts.

For the purposes of this condition, the terms "broadcast week," "content category" and "musical selections" shall have the meaning set out in section 2 of the Regulations.

4. The licensee shall, upon commencement of operations, make a basic annual contribution to Canadian content development (CCD). The amount of the contribution shall be determined in accordance with the policy set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, as amended from time to time (Broadcasting Public Notice 2006-158).

The licensee shall allocate 60% of this basic annual CCD contribution to FACTOR or to MUSICACTION.

The remainder of the annual basic contribution to CCD shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives in Broadcasting Public Notice 2006-158.

This condition of licence shall expire upon the coming into force of the amendments to the *Radio Regulations, 1986* relating to CCD.

5. In addition to the basic annual contribution, commencing in the first year of operations, the licensee shall contribute \$44,000 to the promotion and development of Canadian content. This amount shall vary in subsequent years of the licence term in accordance with the terms set out in the application as approved.

Commencing in the first year of operation, the licensee shall contribute \$21,500 of this additional amount to FACTOR. This amount shall vary in subsequent years of the licence term in accordance with the terms set out in the application as approved. The remainder of this additional amount in each year shall be directed to parties and initiatives fulfilling the definition of eligible initiatives in Broadcasting Public Notice 2006-158.

6. The licensee is authorized to simulcast the programming of the new FM station on CJCH for a transition period of three months following the commencement of operations of the FM station, or for any period granted by the Commission subsequent to the submission of an application.