



## Broadcasting Decision CRTC 2009-277

Route reference:

Broadcasting Notice of Public Hearing 2008-14

Ottawa, 15 May 2009

### **My Broadcasting Corporation**

Brighton, Ontario

*Application 2008-1311-4, received 30 September 2008*

*Public Hearing in Orillia, Ontario*

*26 January 2009*

### **English-language FM radio station in Brighton**

*The Commission **approves** an application for a broadcasting licence to operate an English-language commercial FM radio station in Brighton, Ontario.*

#### **Introduction**

1. The Commission received an application by My Broadcasting Corporation (MBC) for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Brighton, Ontario. The new station would operate at 100.9 MHz (channel 265A) with an average effective radiated power of 650 watts.
2. MBC is a qualified corporation as defined in *Direction to the CRTC (Ineligibility of Non-Canadians)*, P.C. 1997-486, 8 April 1997, amended by P.C. 1998-1268, 15 July 1998. It is jointly controlled by Jon Pole and Andrew Dickson.
3. The new station would offer an Adult Contemporary/Gold music format. It would provide 104 hours of local programming per broadcast week, including 14 hours of spoken word programming, of which five hours would be devoted to local news. The remainder of the broadcast week would be devoted to syndicated programs and some programming received from other MBC stations.
4. Finally, MBC committed to devote, by condition of licence, at least 38% of all category 2 (Popular music) musical selections broadcast during each broadcast week and between 6:00 a.m. and 6:00 p.m., Monday to Friday, to Canadian selections broadcast in their entirety.
5. The Commission received several interventions in support of this application, as well as interventions in opposition. The interventions and the applicant's replies to the interventions can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

## Commission's analysis and determinations

6. After examining the application in light of applicable regulations and policies and taking into account the interventions received and the applicant's replies to those interventions, the Commission considers that the issues to be addressed in its determinations are the following:
  - Would approval of the present application result in an undue negative impact on existing radio stations in the Cobourg and Belleville/Trenton radio markets?
  - Would approval of the present application result in an undue negative impact on United Christian Broadcasters Canada's (UCB's) low-power rebroadcasting transmitter in Cobourg?

### **Would approval of the present application result in an undue negative impact on existing radio stations in the Cobourg and Belleville/Trenton radio markets?**

7. Opposing interveners expressed concerns relating to the potential economic impact of the proposed station on other stations in the Northumberland County area and to the potentially destabilizing effect of a new licensee in an area with a fragile radio market. Intervenors focused on the radio services currently offered to the Brighton area by incumbents such as Pineridge Broadcasting Inc. (licensee of CHUC-FM and CKSG-FM Cobourg), Quinte Broadcasting Company Limited (licensee of CIGL-FM and CJBQ Belleville, and CJTN-FM Trenton), and Starboard Communications Ltd. (licensee of CHCQ-FM and CJOJ-FM Belleville). Opposing interveners also submitted that, contrary to the applicant's assertions, MBC would inevitably seek out other sources of revenue outside the Brighton area.
8. In reply to the interventions, MBC submitted that the proposed service would have no impact on radio stations in Cobourg since the 3mV/m contour of the proposed station does not reach that city, and that it would have little to no impact on radio stations operating in and around Belleville. MBC also stated that Brighton is not located in the Belleville Census Metropolitan Area and is, in fact, its own market.
9. The Municipality of Brighton (population 10,253, 2006 Census) lies within the Northumberland County area (population 80,963, 2006 Census). Brighton is located about 35 kilometres east of Cobourg, about 35 kilometres west of Belleville and about 15 kilometres west of Trenton. It is considered a part of the Cobourg Central Radio Market, a Bureau of Broadcast Measurement (BBM) defined market that includes Cobourg.
10. The Commission notes MBC's projection that its proposed station would generate advertising revenues of \$230,000 in Year 1, increasing to \$308,000 in Year 7, as well as the applicant's estimate that 15% (\$38,000) of the Year 2 revenues of the proposed station would be generated at the expense of existing broadcasters in Cobourg and Belleville/Trenton. The Commission further notes that MBC's proposed station would be the first local originating station in Brighton, thereby improving radio service for listeners in that municipality.

11. The Commission considers that, based upon the area that would be served by MBC's proposed station, the applicant's advertising revenue projections and the size of the Cobourg and Belleville/Trenton radio markets, the proposed station would not attract a significant amount of advertising revenue from those markets. Accordingly, the Commission is of the view that approval of MBC's application would not result in an undue negative impact on the radio stations currently operating in Cobourg and Belleville/Trenton.

**Would approval of the present application result in an undue negative impact on United Christian Broadcasters Canada's low-power rebroadcasting transmitter in Cobourg?**

12. In its intervention, UCB submitted that the licensing of the proposed radio station would effectively force its low-power rebroadcasting transmitter located in Cobourg off the air, since that transmitter operates on frequency 100.9 MHz, the same frequency identified by MBC for its proposed station.
13. In its reply to UCB, MBC stated that it has asked its engineer to analyze the Cobourg area for potential technical solutions that UCB could employ, and that it will work on an ongoing basis with UCB in order to find a solution.
14. The Commission considers that, since the proposed station would introduce a significant amount of local programming to Brighton, MBC's application would make the best use of the frequency 100.9 MHz in that area. Further, although UCB currently operates a service in Cobourg, this service is licensed as a rebroadcaster of a distant signal on an unprotected basis. Thus, although the impact on UCB may be significant, it is not undue. The Commission further notes MBC's intention of working with UCB on an ongoing basis to find a technical solution and encourages it to do so.

**Conclusion**

15. In light of the above, the Commission **approves** the application by My Broadcasting Corporation for a broadcasting licence to operate an English-language, commercial FM radio programming undertaking in Brighton, Ontario. The terms and **conditions of licence** are set out in the appendix to this decision.

**Canadian content development**

16. The Commission reminds the applicant that it must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time. The Commission notes that MBC indicated that, in addition to the required basic annual contributions, it would, by condition of licence, contribute a total of \$3,000 to CCD over six consecutive broadcast years (\$500 per broadcast year) beginning in the second year of operations. Of this amount, 20% would be devoted to FACTOR, with the remainder to be directed to the Brighton Waterfront Festival.

17. The Commission reminds the applicant 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 *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

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 2009-277

## Terms, conditions of licence and encouragement

### Terms

#### Issuance of the broadcasting licence to operate an English-language commercial FM radio programming undertaking in Brighton, Ontario

The licence will expire 31 August 2015.

The station will operate at 100.9 MHz (channel 265A) with an average effective radiated power of 650 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 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 May 2011. 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 will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. 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*:
  - a) devote, in each broadcast week, a minimum of 38% of its musical selections from content category 2 (Popular music) to Canadian selections broadcast in their entirety; and

- b) devote, between 6:00 a.m. and 6:00 p.m., in any period beginning on Monday of a week and ending on Friday of the same week, a minimum of 38% of its musical selections from content category 2 (Popular music) to Canadian selections broadcast in their entirety.

For the purposes of this condition of licence, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meaning as that set out in the *Radio Regulations, 1986*.

3. In addition to the required basic annual contribution to Canadian content development, set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall, beginning in the second year of operations, make an annual contribution of \$500 (\$3,000 over six consecutive broadcast years) to the promotion and development of Canadian content. Of this amount, 20% shall be allocated to FACTOR. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

## **Encouragement**

### **Employment equity**

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of the management of its human resources.