



Broadcasting Decision CRTC 2007-211

Ottawa, 4 July 2007

Newcap Inc.

Carbonear, Newfoundland and Labrador

Application 2006-0523-0, received 2 May 2006

Public Hearing in Membertou, Nova Scotia

16 April 2007

CHVO Carbonear – Conversion to FM band

*The Commission **approves** an application for a broadcasting licence to operate a new English-language, FM radio programming undertaking in Carbonear, Newfoundland and Labrador, to replace AM station CHVO Carbonear.*

Introduction

1. Newcap Inc. (Newcap) filed an application for a broadcasting licence to operate a new English-language, FM radio programming undertaking in Carbonear to replace its AM station CHVO. The proposed station would operate at 103.9 MHz (channel 280B) with an average effective radiated power of 14,000 watts.
2. Newcap indicated that the new FM station would continue to offer a Country music format targeted to adults aged 25 and over. All the programming would be local: half would be live-to-air and half would be voice-tracked programming that fulfils the definition of local programming set out in *Commercial Radio Policy 2006* (Broadcasting Public Notice 2006-158). In each broadcast week, the station would broadcast a minimum of 12 hours of news including 5 hours 39 minutes of local news, three daily regional newscasts as well as surveillance material such as local weather, traffic and promotion of community events.
3. The Commission received interventions in support of this application and interventions in opposition by Coast Broadcasting Ltd., licensee of CKSJ-FM St. John's, and by Newfoundland Broadcasting Company Limited, licensee of CHOZ-FM St. John's.
4. The Commission considers that the primary issue arising from this application is whether the proposed conversion of CHVO to the FM band would enable the station to provide a quality signal in the St. John's radio market where Newcap currently owns and operates four radio stations: CJYQ, CKIX-FM, VOXM and VOXM-FM. Under the Commission's Common Ownership Policy set out in *Commercial Radio Policy 1998* (Public Notice 1998-41), there are limits on the number of AM and FM stations that may be owned by one licensee in a particular market.

Commission's analysis and determinations

5. Newcap noted that the population within CHVO's service area is spread over a wide terrain that is hilly with many coastal inlets. The licensee submitted that CHVO's current AM signal is not adequate and that the proposed FM technical parameters would enable the station to provide better coverage within its service area.
6. In the view of the opposing interveners, approval of this application would give Newcap a fifth radio station in the St. John's market, contrary to the Commission's Common Ownership Policy. The opposing interveners contended that CHVO's entry into St. John's would further increase the competitive imbalance in that radio market with an undue negative financial impact on both CKSJ-FM and CHOZ-FM.
7. While Newcap acknowledged that the new FM signal could reach parts of the St. John's market, it maintained that the quality of that signal would be marginal and would not attract listeners away from incumbent radio stations in St. John's. Newcap further affirmed that the programming broadcast by the proposed FM station would be targeted to listeners in the Carbonear area. As an example, Newcap noted that, of the minimum 12 hours of news aired in each broadcast week, 5 hours 39 minutes would be unique to the Carbonear FM station and dedicated to coverage of news stories covering Carbonear and Conception Bay North. In Newcap's view, the programming offered by its Carbonear FM station would be of little interest to listeners in St. John's. Nevertheless, at the hearing, Newcap indicated its willingness to accept a condition of licence prohibiting the proposed FM station from soliciting local advertising in the St. John's market.
8. Based on its analysis of the record of this proceeding, the Commission is satisfied that the 3 mV/m contour of the proposed FM station in Carbonear would not reach St. John's. While the Department of Industry noted that part of St. John's would be included in the FM station's 0.5 mV/m contour, the hilly terrain and buildings in that city would make it difficult for listeners to receive a reliable signal. Accordingly, the Commission is of the view that the proposed FM station would not provide a quality signal to St. John's. Nonetheless, the Commission finds that it would be appropriate to impose a condition of licence prohibiting the Carbonear FM station from soliciting local advertising in the St. John's market in order to address the opposing interveners' concerns regarding any potential negative impact on their operations.

Commission's conclusion

9. In light of the above, the Commission **approves** the application by Newcap Inc. for a broadcasting licence to operate a new English-language, commercial FM radio programming undertaking in Carbonear to replace its AM station CHVO. The terms and **conditions of licence**, including a **condition** prohibiting the licensee from soliciting local advertising in the St. John's market, are set out in the appendix to this decision.

10. As set out in the appendix to this decision, the licensee is authorized to simulcast the programming of the new FM station on CHVO for a transition period of six months following the commencement of operations of the FM station. 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 CHVO effective at the end of the simulcast period.

Changes flowing from the Commercial Radio Policy 2006

11. In Broadcasting Public Notice 2006-158, the Commission set out a new approach to the development and promotion of Canadian content. In order to reflect a new emphasis on development initiatives that lead to the creation of audio content for broadcasting 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 that will expire upon the coming into force of the amendments to the Regulations.
12. Newcap made a commitment that, in addition to the required basic annual contributions, it would, by condition of licence, allocate an annual contribution of \$10,000 per year in each of the first seven years of operation. Newcap committed to direct \$2,000 per year of this over and above amount to FACTOR. The remainder, \$8,000, would be directed to support for Music NL, formerly known as the Newfoundland and Labrador Music Industry Association. The Commission is imposing a **condition of licence** as set out in the appendix to this decision, reflecting these commitments.
13. The Commission reminds Newcap 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.

Employment equity

14. 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

- *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 2007-211

Terms and conditions of licence

Terms

Issuance of the broadcasting licence to operate an English-language FM radio programming undertaking in Carbonear, Newfoundland and Labrador

The licence will expire 31 August 2013.

The station will operate at 103.9 MHz (channel 280B) with an average effective radiated power of 14,000 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 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 4 July 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 no. 5.
2. The licensee is authorized to simulcast the programming of the new FM station on CHVO for a transition period of six months following the commencement of operations of the FM station.
3. The licensee shall not solicit local advertising in St. John's, Newfoundland and Labrador.

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 (Public Notice 2006-158), as amended from time to time.

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

The remainder of the annual basic contribution to CCD shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives in 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, the licensee shall, upon commencement of operations, contribute \$10,000 annually to the promotion and development of Canadian content. This amount is over and above the licensee's required basic annual CCD contribution. Of this amount, \$2,000 per year shall be devoted to FACTOR. The remainder, \$8,000 per year, shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives as set out in paragraph 108 of Public Notice 2006-158.