



Broadcasting Decision CRTC 2007-424

Ottawa, 12 December 2007

Maritime Broadcasting System Limited
Windsor, Nova Scotia

Application 2007-0509-8, received 3 April 2007
Public Hearing in Kelowna, British Columbia
30 October 2007

Use of frequency 92.9 MHz by the new FM radio station in Windsor

*The Commission **denies** the application by Maritime Broadcasting System Limited to operate its new English-language FM radio programming undertaking in Windsor, Nova Scotia, at 92.9 MHz (channel 225C1) with an average effective radiated power of 23,800 watts.*

Introduction

1. The Commission received an application by Maritime Broadcasting System Limited (MBS) to operate its new English-language FM radio programming undertaking in Windsor, Nova Scotia, at 92.9 MHz (channel 225C1) with an average effective radiated power (ERP) of 23,800 watts.
2. The applicant filed this application further to the Commission's direction in Broadcasting Decision 2006-644 in which the Commission stated that it would only issue a licence for this station provided that the applicant submitted, within three months of the date of that decision, an amendment to its application proposing new technical parameters that are acceptable to both the Commission and the Department of Industry.
3. As part of the application, MBS also requested an exception to the Commission's Common ownership policy¹ given that the proposed technical parameters, if approved, would see MBS exceed the limit of two FM stations in the same language in each of the Halifax and Kentville markets. MBS explained that although Windsor receives the signals of nine commercial radio stations from Halifax, a commercial station from Bridgewater, several community stations and the Canadian Broadcasting Corporation (CBC), MBS offers the only local station "committed to delivering diverse local programming focused on Windsor and surrounding communities." MBS added that given the number and variety of stations available in the Windsor market, it requires an exception from the Common ownership policy to maintain the financial viability required to compete in the market while sustaining a strong local programming presence.

¹ Under the Commission's Common ownership policy set out in Public Notice 1998-41 (the Commercial radio policy), a person may own or control up to two FM stations in the same language in a market such as that of Halifax or Kentville.

4. MBS indicated that it does not intend to solicit advertising revenue in the Halifax or Kentville markets and that it would accept a condition of licence to that effect.
5. The Commission received an intervention opposing this application from Newcap Inc. (Newcap). Newcap expects to launch a new FM radio station in Kentville by March 2008. This new station was approved in Broadcasting Decision 2007-221.
6. After reviewing the application and the intervention, the Commission is of the view that the three primary issues to be considered in its evaluation of this application are the following:
 - Would approval of the MBS application have a significant negative impact on Newcap's new Kentville station?
 - Does the MBS proposal represent the best use of the frequency?
 - Does MBS's case warrant an exception to the Common ownership policy?

Would approval of the MBS application have a significant negative impact on Newcap's new Kentville station?

7. In its intervention, Newcap expressed concern that the use of the proposed frequency and ERP by MBS would have a significant negative impact on Newcap's new FM radio station in Kentville. More specifically, Newcap was concerned that the approval of MBS's application would result in its new station having to compete for advertising against a combination of all three of MBS's stations operating in the same market.
8. The Commission notes that MBS has agreed to accept a condition of licence prohibiting it from soliciting advertising in the Kentville market. Furthermore, the Commission considers that since the proposed 3 mV/m contour of the new MBS FM station in Windsor would not encompass Kentville entirely, if the proposed frequency and ERP were approved, MBS's new FM station would likely only garner an insignificant increase in tuning. The Commission is therefore of the view that were it to approve this application, the MBS station would not have a significant negative financial impact on Newcap's new Kentville station.

Does the MBS proposal represent the best use of the frequency?

9. The Commission notes that the proposed technical parameters cover a considerably greater area than that currently covered by its AM station, CFAB Windsor. While MBS has applied for a class C1 frequency, it also recognized that a class B frequency would be sufficient to provide service to Windsor. Consequently, the Commission considers that the MBS proposal does not represent the best use of the frequency, which would be better used by a station serving Halifax.

Does MBS's case warrant an exception to the Common ownership policy?

10. The Commission has granted exceptions to the Common ownership policy in the past. Generally, such exceptions have been based on the need to sustain strong, locally focused programming for smaller communities located adjacent to large urban centres and the financial ability of the licensee to provide such local programming and thus contribute to the diversity of voices while maintaining a viable undertaking.
11. The Commission notes that the close proximity of the Kentville and Windsor communities and the Halifax radio market creates a challenge for MBS in designing technical parameters to properly serve Windsor while remaining in compliance with the Common ownership policy. MBS's proposed technical parameters, however, are not in compliance with the Common ownership policy in terms of its 3 mV/m signal overlap with its two Kentville FM stations and of its BBM Bureau of Measurement market overlap with its two Halifax FM stations. The Commission notes that although the intervention focused primarily on a change in ERP as a potential technical solution, such a change represents only one potential option for resolving this issue.
12. The Commission is of the view that the current financial profile of MBS's AM station does not suggest an economic imperative sufficient to grant an exception to the Common ownership policy. Moreover, the Commission is not satisfied that MBS has addressed the fundamental issues related to the impact on diversity of news voices and the level of competition in the markets as a result of the introduction of the new Windsor FM station under the technical parameters proposed in this application. The Commission considers that an FM contour designed to more closely duplicate the coverage of the current AM contour would provide coverage to an area consistent with the market that MBS'S AM station was originally licensed to serve. In addition, the improved quality of an FM signal would attract more listeners and thus potential advertising revenues. An FM transmitter would also result in lower operating costs compared with an AM transmitter. The Commission notes that these factors would improve the financial performance of the station without the necessity of granting an exception to the Common ownership policy.
13. Accordingly, the Commission does not consider that MBS has provided compelling economic or technical reasons to warrant an exception from the Common ownership policy. Furthermore, as stated in Broadcasting Decision 2006-644, the Commission recognizes that alternative FM solutions exist for MBS that could serve to closely replicate the existing CFAB signal coverage enabling MBS at the same time to comply with the Common ownership policy.

Conclusion

14. In light of all of the above, the Commission **denies** the application by Maritime Broadcasting System Limited to operate its new English-language FM radio programming undertaking in Windsor, Nova Scotia, at 92.9 MHz (channel 225C1) with an average effective radiated power of 23,800 watts.

Secretary General

Related documents

- *English-language FM radio station in Kentville*, Broadcasting Decision CRTC 2007-221, 6 July 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CFAB Windsor – Conversion to FM band*, Broadcasting Decision CRTC 2006-644, 27 November 2006

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