



Broadcasting Decision CRTC 2012-97

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Route reference: 2011-675

Additional reference: 2011-675-3

Ottawa, 15 February 2012

Newcap Inc.

Penticton, British Columbia

Application 2011-1201-0, received 19 August 2011

Public hearing in Miramichi, New Brunswick

16 January 2012

CIGV-FM Penticton, CIGV-FM-1 Keremeos and CIGV-FM-2 Princeton – Acquisition of assets and licence renewal

*The Commission **approves** the application by Newcap Inc. for authority to acquire from Great Valley Ltd. the assets of the English-language commercial radio station CIGV-FM Penticton and its transmitters CIGV-FM-1 Keremeos and CIGV-FM-2 Princeton, British Columbia and for a broadcasting licence to continue the operation of the undertaking.*

*The Commission also **renews** the broadcasting licence for CIGV-FM and the above-mentioned transmitters for five years from the original expiry date of 31 August 2011. The licence will therefore expire on 31 August 2016.*

The application

1. The Commission received an application by Newcap Inc. (Newcap) for authority to acquire from Great Valley Ltd. (Great Valley) the assets of the English-language commercial radio programming undertaking CIGV-FM Penticton and its transmitters CIGV-FM-1 Keremeos and CIGV-FM-2 Princeton, British Columbia and for a new broadcasting licence to continue the operation of the undertaking. Newcap further confirmed that it was seeking to renew the broadcasting licence for CIGV-FM under the same conditions as those in effect under the current licence. The Commission received an intervention in support of this application.
2. Newcap is a corporation controlled by Mr. Harold R. Steele.

Commission's analysis and decisions

3. After examining the application in light of applicable regulations and policies, the Commission considers that the issues it must address relate to the following:
 - whether the transaction should be subject to tangible benefits;

- Great Valley's non-compliance with its obligations relating to Canadian content development (CCD) contributions; and
- the renewal of the broadcasting licence for CIGV-FM and its transmitters.

Tangible benefits

4. In Public Notice 1998-41, as reaffirmed in Broadcasting Public Notice 2006-158, the Commission stipulated that it would forego benefits requirements for unprofitable radio programming undertakings. Given that CIGV-FM has been unprofitable over the last three years, the Commission considers that it is appropriate to not require tangible benefits for this transaction.

Non-compliance with obligations relating to Canadian content development contributions

5. The Commission's analysis reveals that Great Valley failed to comply with section 15 of the *Radio Regulations, 1986* (the Regulations), relating to CCD contributions, for the 2007-2008, 2008-2009 and 2009-2010 broadcast years. More specifically, the payments claimed in the 2007-2008 broadcast year were actually made during the 2008-2009 broadcast year. As well, in the 2008-2009 and 2009-2010 broadcast years, the licensee failed to pay the total required amounts to CCD and to distribute no less than 60% of the total required contributions to FACTOR or MUSICACTION. Newcap indicated that it was willing to fulfill the shortfalls for the broadcast years in question within two weeks of the issuance of the decision, should its application be approved.
6. The Commission notes that the total shortfall for the three broadcast years mentioned above represents \$950, of which not less than \$720 must be directed to FACTOR or MUSICACTION. In accordance with the above-mentioned commitment, the Commission directs Newcap to make this contribution no later than two weeks following the date of this decision. A **condition of licence** to that effect is set out in the appendix to this decision.

Renewal of the broadcasting licence for CIGV-FM and its transmitters

7. The Commission notes that the original expiry date for CIGV-FM's broadcasting licence was 31 August 2011, and that the licence was renewed administratively in Broadcasting Decision 2011-556 from 1 September 2011 to 31 March 2012.
8. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach for dealing with radio stations found in non-compliance. The Commission noted in particular that each instance of non-compliance will be evaluated in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also noted that it will consider the circumstances leading to the non-compliance in question, the licensee's arguments, and the measures taken to rectify the situation.
9. In light of the non-compliance issue discussed in paragraphs 5 and 6 of this decision, and in accordance with its revised practice regarding radio non-compliance set out in Broadcasting Information Bulletin 2011-347, the Commission considers that a short-term licence renewal of five years is appropriate for CIGV-FM and its transmitters. This short-term licence

renewal will allow for an earlier review of the licensee's compliance with its conditions of licence and the Regulations.

Conclusion

10. In light of the above, the Commission **approves** the application by Newcap Inc. for authority to acquire from Great Valley Ltd. the assets of the English-language commercial radio programming undertaking CIGV-FM Penticton and its transmitters CIGV-FM-1 Keremeos and CIGV-FM-2 Princeton, British Columbia.
11. The Commission also **renews** the broadcasting licence for the undertaking and its transmitters for five years from the original expiry date of 31 August 2011. The licence will expire on 31 August 2016.
12. Upon surrender of the current licence, the Commission will issue a new broadcasting licence to Newcap for CIGV-FM and the above-noted transmitters under the terms and **conditions of licence** set out in the appendix to this decision.

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

- *Administrative renewals*, Broadcasting Decision CRTC 2011-556, 31 August 2011
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *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.*

Appendix to Broadcasting Decision CRTC 2012-97

Term and conditions of licence for CIGV-FM Penticton and its transmitters CIGV-FM-1 Keremeos and CIGV-FM-2 Princeton, British Columbia

Term

The licence will expire 31 August 2016.

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, by no later than **29 February 2012** make a contribution to Canadian content development in the amount of \$950, of which not less than \$720 must be directed to FACTOR or MUSICACTION.