



## Broadcasting Decision CRTC 2005-20

Ottawa, 31 January 2005

### **Newcap Inc.**

Thunder Bay, Ontario

*Application 2003-1521-9*

*Public Hearing in the National Capital Region*

*7 June 2004*

### **CJLB-FM Thunder Bay – Licence renewal**

*The Commission renews the broadcasting licence for the radio programming undertaking CJLB-FM Thunder Bay, from 1 February 2005 to 31 August 2011.*

#### **The application**

1. The Commission received an application by Newcap Inc. (Newcap) to renew the broadcasting licence for the radio programming undertaking CJLB-FM Thunder Bay, which expires on 31 January 2005.
2. In 1995, the Commission permitted Newcap to enter into a local management agreement (LMA) with C.J.S.D. Incorporated (CJSD)<sup>1</sup>, licensee of CKPR and CJSD-FM Thunder Bay. At that time, both broadcasters were experiencing financial hardship in a difficult Thunder Bay market. They considered that the economic viability of their three radio stations would be better protected through the sharing of their facilities and administrative and sales resources. Although CJSD acted as manager of the three stations, the LMA stipulated that each licensee would retain distinct responsibility for making and implementing decisions related to the programming, particularly news, broadcast by its own radio station(s).
3. In their applications for licence renewal, Newcap and CJSD each requested authority to continue the LMA for a further seven-year term, pursuant to section 11.1 of the *Radio Regulations, 1986* (the Regulations). However, at the hearing, both licensees confirmed their intention to terminate the LMA by no later than 31 May 2005, and advised that they had no intention to replace it by a local sales agreement (LSA) or any other similar cooperative arrangement.

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<sup>1</sup> CJSD is effectively controlled by Mr. H. Fraser Dougall through his ownership of H.F. Dougall Company, Limited (HFDC). Mr. Dougall also holds indirect effective control of Thunder Bay Electronics Limited, licensee of CHFD-TV and CKPR-TV Thunder Bay.

## Interventions

4. The Commission received three interventions in connection with this application. The Canadian Association of Broadcasters (CAB) commented on the issue of whether or not LSAs are captured under section 11.1 of the the Regulations, which pertains to LMAs. The CAB's position is addressed in *The Commission's policy on local management agreements (LMAs) - Determinations concerning the appropriateness of various existing and proposed LMAs, including local sales agreements, between the licensees of radio stations serving the same market*, Broadcasting Public Notice CRTC 2005-10 (Public Notice 2005-10), also published today.
5. Opposition to the renewal of the licence for CJLB-FM was expressed in interventions filed by Ms. Peggy Garriock, owner of the Fashion Outlet Store in Thunder Bay, and by Mr. Eddie Doran. Both of these interveners also filed interventions opposing the renewal of the radio licences issued to CJSD for CKPR and CJSD-FM. Both objected to the continued operation of the LMA then in existence between Newcap and CJSD. Ms. Garriock was concerned that the LMA has resulted in inferior local radio services for listeners in the Thunder Bay market, and has disadvantaged local advertisers by making it difficult to purchase airtime in desirable periods, or by obliging them to purchase time they do not want or to pay a premium. Mr. Doran's principal concern was that, through his extensive media ownership in the Thunder Bay market, Mr. Dougall holds a near monopoly that has been manifest in an unfair bias in the coverage of local news and politics provided by the media outlets under his control.

## The Commission's analysis and determinations

6. Taking into account the discussion with Newcap and CJSD at the hearing regarding the Thunder Bay LMA, the concerns raised by interveners and those of the Commission about such agreements, and the determinations reached by the Commission as set out in Public Notice 2005-10, the Commission accepts the licensees' proposal to terminate the Thunder Bay LMA and their statements that they do not intend to replace it with an LSA or other similar cooperative arrangement.
7. Accordingly, the Commission authorizes the licensee, by **condition of licence**, to continue to operate its Thunder Bay radio stations under the LMA until no later than 31 May 2005.
8. The Commission nevertheless remains concerned with the issues of concentration of ownership and diversity of voices in the Thunder Bay market, and notes that it has addressed these issues in *CKPR and CJSD-FM Thunder Bay – Licence renewal*, Broadcasting Decision CRTC 2005-21 of today's date.

## Conclusion

9. On the basis of its review of this licence renewal application and the licensee's past performance, the Commission **renews** the broadcasting licence for the radio programming undertaking CJLB-FM Thunder Bay, from 1 February 2005 to 31 August 2011. The licence will be subject to the **conditions of licence** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, as well as to the condition set out in this decision regarding the Thunder Bay LMA.

## Employment equity

10. 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

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>*