



Broadcasting Public Notice CRTC 2005-94

Ottawa, 30 September 2005

*The Commission has received the following applications. The deadline for submission of interventions/comments is **4 November 2005**.*

Item Applicant and Locality

1. **Canadian Satellite Radio Inc.**
Across Canada
2. **SIRIUS Canada Inc.**
Across Canada
3. **CHUM Limited**
Across Canada

1. **Across Canada** **Application No. 2005-1067-9**

Application by **Canadian Satellite Radio Inc.** to amend the licence of its satellite subscription radio undertaking.

The licensee proposes the addition of conditions of licence which reflect the following commitments:

- from the date of service launch (planned for December 2005), a minimum of four of the eight Canadian programming channels to be provided by CSR will be French language programming channels;
- from the date of service launch, a minimum of two of the four French language programming channels offered by CSR will be musical programming channels;
- if, during the thirty six (36) month period following service launch CSR is able to add additional Canadian programming channels, it will honour the principle of equality of linguistic service in respect of any additional Canadian programming channels it is able to offer;
- if within that thirty six (36) month period from the date of service launch CSR has exceeded by 25% or more its subscriber projections, as filed in its licensing application, but has been unable to introduce in that period at least two additional

Canadian programming channels (i.e., one English language, one French language), CSR will commit from that date forward to provide 6% of its gross service revenues (rather than 5%) to the support of Canadian Talent Development (“CTD”) initiatives. Such additional funding for CTD initiatives shall be divided equally between French and English language CTD initiatives.

- CSR will work closely with the relevant Canadian agencies in the field of emergency preparedness, and will be an active participant in Canada’s Public Safety and Emergency Preparedness programs.

Licensee's address:

Canada Trust Tower
 BCE Place
 161 Bay Street
 Suite 2300
 Box 222
 Toronto, Ontario
 M5J 2S1
 Fax: (416) 361-6018
 Email: info@cdnsatrad.com

Examination of application:

At the licensee’s address

[\[Broadcasting intervention/comments form\]](#)

2. **Across Canada**
Application No. 2005-1068-7

Application by **SIRIUS Canada Inc.** to amend the licence of its satellite subscription radio undertaking.

The licensee proposes the addition of conditions of licence which reflect the following commitments:

The licensee will, from the date of launch of the service:

- carry a minimum of four (of the eight Canadian programming channels) French language programming channels;
- carry a minimum of three (of the four French language Canadian programming channels) French language music channels; and

- work closely with the relevant Government agencies to participate in Canada's Public Safety and Emergency Preparedness initiative.

If, during the three years following launch, Sirius Canada

- is able to increase the initial offering to ten original Canadian channels, then those two channels will also maintain the principle of equality, with one being in French and the other being in English;
- exceeds the subscriber projections that it filed with the CRTC by 25%, it will either add two additional original Canadian channels (one in French, one in English), or, (in the event it is unable to provide those two additional channels), to commit a further 1% of revenue towards CTD. That further 1% of revenue would also be divided equally between French language and English language CTD initiatives.

Licensee's address:

c/o McCarthy Tetrault LLP
 Toronto-Dominion Bank Tower
 Box 48, Suite 4700
 66 Wellington Street West
 Toronto, Ontario
 M5K 1E6
 Fax: 416-868-0673
 Email: GBUCK@MCCARTHY.CA

Examination of application:

At the licensee's address

[\[Broadcasting intervention/comments form\]](#)

3. **Across Canada**
Application No. 2005-1136-2

Application by **CHUM Limited**, on behalf of a corporation or a partnership to be established, to amend the licence of its terrestrial subscription radio undertaking.

The licensee proposes to change a number of conditions of licence as follows:

A. By replacing condition of licence number 1, which states:

“1. The licensee shall distribute 50 audio channels, all of which must be produced in Canada.”

The proposed new condition of licence number 1 would read:

“A maximum of one non-Canadian audio channel may be packaged or linked with each Canadian-produced audio channel. In no case may subscribers to the licensee’s service be offered a package of audio channels in which foreign-produced channels predominate. The licensee must provide the Commission, upon request, with a complete list of all non-Canadian audio channels distributed on its service.”

B. By replacing condition of licence number 3, which states:

“3. A maximum of 10% of the programming distributed each week on a French-language or English-language channel may consist of programming that was originally broadcast on licensed A.M. or F.M. stations.”

The proposed new condition of licence number 3 would read:

”A maximum of 50% of the programming distributed each week on any of the licensee’s Canadian-produced audio channels may consist of programming that was originally broadcast on licensed A.M. or F.M. stations.

C. By replacing condition of licence number 4, which states:

4. (1) For the purposes of this condition, "ethnic programming period" means that portion of a broadcast week during which a licensee broadcasts ethnic programs.
- (2) For the purposes of this condition, "Canadian selection" means a musical selection
 - (a) that meets at least two of the following conditions, namely,
 - (i) the music is or lyrics are performed principally by a Canadian,
 - (ii) the music is composed entirely by a Canadian,
 - (iii) the lyrics are written entirely by a Canadian,
 - (iv) the musical selection consists of a live performance that is
 - (A) recorded wholly in Canada, or
 - (B) performed wholly in and broadcast live in Canada, and
 - (v) the musical selection was performed live or recorded after September 1, 1991, and a Canadian who has collaborated with a non-Canadian receives at least fifty per cent of the credit as composer and lyricist according to the records of a recognized performing rights society;
 - (b) that is an instrumental performance of a musical composition that meets the conditions set out in subparagraph (a)(ii) or (iii);

- (c) that is a performance of a musical composition that a Canadian has composed for instruments only; or
 - (d) that has already qualified as a Canadian selection under regulations previously in effect.
- (3) The licensee shall, in a broadcast week, devote 10% or more of its musical selections from content category 3 broadcast on each channel to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.
- (4) Where 7 % or more of the musical selections broadcast by the licensee on any channel during an ethnic programming period are Canadian selections and are scheduled in a reasonable manner throughout that period, condition of licence 4(6) shall apply only in respect of those musical selections that are broadcast on that channel during that part of the broadcast week that is not devoted to ethnic programs.
- (5) The licensee may on any channel in a broadcast week, reduce the percentage of its Canadian musical selections from content category 2 referred to in condition of licence 4(6) to
- (a) not less than 20% if, in that broadcast week, the licensee devotes 35% or more but less than 50% of all its musical selections to instrumental selections; and
 - (b) not less than 15% if, in that broadcast week, the licensee devotes 50% or more of all its musical selections to instrumental selections.
- (6) The licensee shall, on each channel, in a broadcast week, devote 35% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety and schedule them in a reasonable manner throughout each broadcast day.
- (7) For the purpose of this condition of licence, a montage is deemed to be a Canadian selection broadcast in its entirety if
- (a) the total duration of the excerpts of Canadian selections from content category 2 is greater than 50% of the total duration of the montage; and
 - (b) the total duration of the montage is four minutes or more.
- (8) The licensee shall, as an exception to the percentage of Canadian musical selections set out in condition of licence 4(6) above, on a channel where at least 90% of the musical selections from content category 2 that it broadcasts are selections released before 1 January 1981:

- in that broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

For purposes of this condition, the licensee will also be responsible for specifying, on the music lists it provides to the Commission, the year of release for all musical selections it broadcasts.

The proposed new condition of licence number 4 would read:

“A minimum of 35% of the musical selections broadcast each week on the licensee’s Canadian-produced audio channels, considered together, must be Canadian.”

D. By replacing condition of licence number 8, which states:

8. The licensee shall not broadcast any commercial messages.

The proposed new condition of licence number 8 would read:

“The licensee shall broadcast no more than six minutes of national commercial messages during any clock hour on any Canadian-produced channel. For purposes of this condition of licence a “national commercial message” is a commercial message that is purchased at a national rate and receives national distribution on the service.”

E. By adding the following conditions of licence:

“The licensee shall adhere to the provisions of the CAB’s *Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission.”

“In addition to the requirements in Condition of Licence No. 9, the licensee shall, for any non-Canadian-produced channel that may be identified by the Commission from time to time, adhere to the provisions of sections 8(5) and (6) of the Radio Regulations, 1986.”

“For any non-Canadian produced channel, the licensee shall, at the request of the Commission, submit for any period specified by the Commission in its request, the following information for each musical selection broadcast:

- (i) the name of the artist;
- (ii) the name of the album from which the musical selection is taken and the number of the track;
- (iii) the year that the musical selection was released; and
- (iv) the version of the track, where multiple versions exist.

F. The licensee also proposes that condition of licence number 11 become condition of licence number 13, and be revised with the addition of the term “Canadian musical selection”, as follows:

13. For the purposes of all of the conditions of licence set out above, the terms "A.M. station," "broadcast day," "broadcast week," "Canadian musical selection," "commercial message," "content category," "content subcategory," "ethnic program," "F.M. station," "licensed," "montage," and "musical selection," shall have the meaning set out in section 1 of the *Radio Regulations, 1986*. All times shall be determined according to the Eastern time zone.

Licensee's address:

299 Queen Street West
Toronto, Ontario
M5V 2Z5
Fax: (416) 340-7005
E-Mail: peterm@chumlimited.com

Examination of application:

At the licensee's address

[\[Broadcasting intervention/comments form\]](#)

Public Participation

Deadline for Interventions/Comments

4 November 2005

The intervention must be received by the CRTC and by the applicant on or before the above-mentioned date. The Commission cannot be held responsible for postal delays.

Your intervention will be considered by the Commission, and will form part of the public record of the proceeding without further notification to you, provided the procedure set out below has been followed. You will be contacted only if your submission raises procedural questions.

Submit your written intervention to the Secretary General of the Commission in **only one** of the following formats:

by using the
Broadcasting Intervention/Comments Form
located below the description of each application within this public notice

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
(819) 994-0218

A true copy must be sent to the applicant and proof that this has been done must accompany the intervention sent to the Commission.

The Commission advises those who file and serve by electronic mode to exercise caution when using e-mail for service of documents or notification, as it may be difficult to establish that service has occurred.

Before initiating service through electronic mode, please ensure that you will be able to satisfy the Commission, upon request, that service of the notification was completed.

Where the intervention is filed by electronic means, the line *****End of document***** should be entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

Each paragraph of the document should be numbered.

Your intervention should clearly identify the application and indicate whether you support or oppose the application, or if you propose changes to it, include the facts and grounds for your proposal.

Important

All information submitted, including your email address, name and any other personal information as provided, will become part of the public record and can be viewed on the Commission's Web site.

Documents sent in electronic format will be put on the Commission's Web site exactly as we received them, and in the official language and format in which they are sent. Documents not received electronically will be scanned and put on the Web site.

Examination of Documents

An electronic version of applications is available from the Commission's web site by selecting the application number within this notice.

A list of all interventions/comments will also be available on the Commission's Web site. An electronic version of all interventions/comments submitted will be accessible from this list. To access the list, select "Lists of interventions/comments" under "Public Proceedings" from the Commission's Web site.

Documents are also available during normal office hours at the local address provided in this notice and at the Commission offices and documentation centres directly involved with these applications or, upon request, within 2 working days, at any other CRTC offices and documentation centres.

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Secretary General

This document 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>