



Broadcasting Decision CRTC 2006-323

Ottawa, 2 August 2006

Newcap Inc.
Calgary, Alberta

*Application 2004-0743-8
Public Hearing at Calgary, Alberta
21 February 2006*

Adult Album Alternative FM radio station in Calgary

*In this decision, the Commission **approves in part** an application by Newcap Inc. (Newcap) for a broadcasting licence to operate a new English-language, commercial FM radio station in Calgary. The Commission is prepared to authorize Newcap to operate its service at 90.3 MHz. Newcap must, within three months of the date of this decision, notify the Commission whether it would be prepared to do so, and if not, propose the use of another frequency.*

Background

1. At the 21 February Public Hearing in Calgary, the Commission considered ten applications for broadcasting licences to operate new radio stations to serve Calgary, as well as three applications to serve the nearby community of Airdrie, which is considered to be part of the Calgary Central Market Area. The applicants were as follows:

Calgary

- Touch Canada Broadcasting Inc. (Touch Canada)
- CHUM Limited (CHUM)
- 1182743 Alberta Ltd. (1182743 Alberta)
- Evanov Radio Group Inc., on behalf of a corporation to be incorporated (Evanov)
- Calgary Independent Radio Broadcasters Inc. (Calgary Independent)
- Jim Pattison Broadcast Group Ltd. (the general partner) and Jim Pattison Industries Ltd. (the limited partner), carrying on business as Jim Pattison Broadcast Group Limited Partnership (Pattison)
- Yadwinder S. Sivia, on behalf of a corporation to be incorporated (Sivia)
- Rawlco Radio Ltd. (Rawlco)
- Harvard Broadcasting Inc. (Harvard)
- Newcap Inc. (Newcap)

Airdrie

- Tiessen Media Inc. (Tiessen)
 - Golden West Broadcasting Ltd. (Golden West)
 - Newcap
2. The Commission's determination that the Calgary market can support the introduction of four new commercial FM radio stations as well as a new radio station to provide local service to Airdrie is set out in *Licensing of new radio stations to serve Calgary and Airdrie, Alberta – Introduction to Broadcasting Decisions CRTC 2006-321 to 2006-326*, Broadcasting Public Notice CRTC 2006-97 (Public Notice 2006-97), of today's date. That public notice also summarizes the rationale underlying the Commission's approval, in whole or in part, of the applications by Harvard, Rawlco, Newcap and CHUM to serve Calgary, as well as the application by Tiessen to serve Airdrie.
 3. In *Denial of various applications proposing radio service for Calgary and Airdrie, Alberta*, Broadcasting Decision CRTC 2006-326, also dated today, the Commission has denied the competing applications for broadcasting licences to operate new radio stations in Calgary by Touch Canada, Evanov, 1182743 Alberta, Calgary Independent, Pattison and Sivia, as well as the applications for broadcasting licences to operate new radio stations in Airdrie by Golden West and Newcap.

The application

4. Newcap is a wholly-owned subsidiary of Newfoundland Capital Corporation Limited, which is ultimately controlled by Mr. Harold R. Steele. Newcap operates over 70 radio stations in Atlantic Canada, Ontario and Alberta, including CIQX-FM Calgary.
5. Newcap proposed to establish an English-language commercial FM radio station that would operate at 92.9 MHz (channel 225C1) with an average effective radiated power (ERP) of 48,000 watts. The proposed station would offer a Triple A (Adult Album Alternative) music format targeted to an audience between 18 and 44 years of age, and of particular appeal for listeners in their early twenties to their mid-thirties. A minimum of 40% of all musical selections from content category 2 (Popular Music) aired both during the broadcast week and between 6:00 a.m. and 6:00 p.m. Monday through Friday would be Canadian selections.
6. The proposed station would broadcast 9 hours of scripted spoken word programming each broadcast week, of which 5 hours and 45 minutes would be devoted to scheduled news, and 3 hours and 9 minutes of each week would be devoted to information updates and surveillance material including traffic, weather and road conditions and sports.
7. Newcap indicated that that it would not participate in the Canadian talent development (CTD) plan created by the Canadian Association of Broadcasters. Instead, it would devote a minimum of \$1 million in direct expenditures for CTD per year, resulting in a total of \$7 million in direct expenditures over seven consecutive broadcast years upon commencement of operations. Annual expenditures would be allocated as follows:

- \$510,000 to its “Making of a Band” program, to provide sustained support for three local artists or bands, including playlist rotation for two singles from the winning band’s CD on all format-compatible Newcap stations in Canada
- \$450,000 to the Radio Starmaker Fund
- \$ 40,000 to support a summer music skills clinic to be known as “Summer Jam Clinic”

Interventions

8. The Commission received numerous interventions in support of this application, and one intervention in opposition to this application, submitted by Ms. J. Moffatt. The Commission also received interventions offering general comments, submitted by the Canadian Independent Record Production Association (CIRPA), Corus Entertainment Inc. (Corus) and Corinna Summersgill.
9. Ms. Moffatt’s opposition to Newcap’s application was based on her contention that Newcap’s existing Calgary radio station CIQX-FM already operates in the Triple A musical format, and that Newcap has no need for a second radio station to operate in the same format. Ms. Moffatt was also of the view that a recent change of format by CIQX-FM should have been the subject of an application to the Commission.
10. CIRPA indicated that it generally supports applicants that offer higher levels of Canadian musical selections, contribute to diversity of ownership in the marketplace and offer programming diversity both in terms of musical format and with respect to the selections included in their playlists. CIRPA also expressed a general concern with the level of CTD funding proposed by applicants to be directed to the Foundation to Assist Canadian Talent on Records (FACTOR). In CIRPA’s opinion, the recording industry in Canada would be better served if a substantial portion of CTD funds were directed to supporting FACTOR, an organization that assists in the development of new artists and the marketing of existing ones.
11. CIRPA specifically submitted that Newcap’s CTD plans for a “Summer Jam Clinic” were “more of a summer camp/community outreach project rather than a program to further develop the Canadian recording industry.” The intervener also noted that Newcap’s application had made no provision for funds to be directed to FACTOR.
12. Corus, licensee of three existing commercial radio stations serving Calgary, recommended that any of the applicants in this proceeding that receives a licence to serve the Calgary market should make a commitment to maintain its proposed format throughout its first term of licence.
13. Corinna Summersgill was of the view that Newcap’s existing station CIQX-FM should be required to return to its previous musical format.

Applicant's reply

14. Newcap did not reply to the interventions by Ms. Moffatt, Corus and Corinna Summersgill.
15. In reply to concerns expressed in CIRPA's intervention, Newcap noted that it had offered 40% Canadian content, a diverse format, and \$7 million in CTD funding. With respect to its Summer Jam Clinic, Newcap indicated that it would be much more than a summer camp, stating that it would give musical opportunities to children at an impressionable age. Newcap expressed the opinion that such experiences could be the catalyst for taking children to the next level of musical achievement.

Commission's analysis and determinations

16. In Public Notice 2006-97, the Commission set out its determination that, on the basis of the strength of the Calgary market and the current profitability of Calgary commercial radio stations, the Calgary radio market can support the introduction of four new commercial radio stations to serve Calgary, as well as a new radio station to provide local service to Airdrie, without an undue negative impact on existing stations.
17. The Commission considers that the Triple A format to be offered by Newcap would introduce a new commercial radio format to Canada, adding an important element of musical diversity to the Calgary radio market that would appeal to listeners aged 18 to 44. The Commission is of the view that the diversity inherent in the format would lead to on-air exposure for artists that receive little or no airplay by radio stations that offer more mainstream formats. As well, the Commission considers that this eclectic format, although targeted to a broad demographic group, would have a minimal impact on existing commercial radio stations offering more mainstream formats. The Commission further notes that the proposed Newcap station would provide significant exposure for Canadian artists through the applicant's commitment to ensure that at least 40% of all musical selections from content category 2 (Popular Music) played both during each broadcast week and between 6:00 a.m. and 6:00 p.m. Monday to Friday are Canadian selections. The Commission also notes Newcap's commitment to devote \$7 million to CTD over seven consecutive broadcast years upon commencement of operations, including \$3.85 million to be spent locally. Finally, the Commission considers that approval of the Newcap application would address a competitive imbalance in the Calgary radio market, given that Newcap currently competes as a standalone operator against Corus, Rogers Broadcasting Limited and Standard Radio Inc., all of which operate multiple radio stations in the market.
18. The Commission notes that Newcap's technical proposal to operate its station at 92.9 MHz was technically mutually exclusive with that of Harvard. Harvard's proposal for the use of 92.9 MHz was approved in *Alternative Rock FM radio station in Calgary*, Broadcasting Decision CRTC 2006-321, also dated today.

19. In light of all of the above, the Commission **approves in part** the application by Newcap Inc. for a broadcasting licence to operate an English-language, commercial FM radio programming undertaking in Calgary. However, the applicant's proposed use of frequency 92.9 MHz is **denied**.
20. Considering the overall quality of the applications, the Commission is of the view that Newcap's proposed service would represent the optimal use of the remaining Class C1 frequency available in Calgary: 90.3 MHz. The Commission is prepared to authorize Newcap to operate its service at 90.3 MHz. Newcap is to notify the Commission within three months of the date of this decision whether it would be prepared to do so, and if not, to propose the use of another frequency. The Commission notes that a proposal to use another frequency would form part of a public process.
21. The Commission notes the applicant's commitments to the broadcast of Canadian music and its proposed contributions to CTD. A **condition of licence** is set out in the appendix to this decision requiring the applicant to adhere to its commitments to minimum annual financial contributions to CTD. The Commission expects the applicant to contribute a total of \$7 million over a period of seven consecutive broadcast years upon commencement of operations, as proposed.
22. The Commission notes the concerns expressed by CIRPA. The Commission considers that the initiatives proposed by the applicant will provide valuable support for the development of Canadian talent.
23. The Commission does not consider that it is appropriate to impose a condition of licence requiring the applicant to maintain its program format throughout the first licence term, as suggested by Corus.

Cultural diversity

24. In *Commercial Radio Policy, 1998*, Public Notice CRTC 1998-41, 30 April 1998, the Commission encouraged broadcasters to reflect the cultural diversity of Canada in their programming and employment practices.
25. The Commission expects Newcap to reflect Canada's cultural diversity in its programming and employment practices.

Employment equity

26. 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.

Issuance of the licence

27. Subject to the limitations set out below at paragraph 28, the licence issued to Newcap will be effective 1 September 2006 and will expire 31 August 2013. It will 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 number 5.
28. The Commission will only issue the licence, and it will only be effective at such time as:
- The applicant notifies the Commission, within three months of the date of this decision whether it would be prepared to operate its service at 90.3 MHz, or submits an amendment to its application proposing the use of another FM frequency and technical parameters that are acceptable to both the Commission and the Department of Industry (the Department). Such an amended application would form part of a public process.
 - Pursuant to section 22(1) of the *Broadcasting Act*, the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.
 - 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 2 August 2008. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Secretary General

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 2006-323

Conditions of licence

1. The licence will 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 number 5.
2. The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986*, in any broadcast week:
 - (a) devote, in that broadcast week, a minimum of 40% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety; and
 - (b) devote, between 6:00 a.m. and 6:00 p.m., in the period from Monday to Friday of the same broadcast week, a minimum of 40% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category,” and “musical selection” shall have the same meaning as that set out in the *Radio Regulations, 1986*.

3. Upon commencement of operations, the licensee shall contribute an annual minimum of \$1 million to the development and promotion of Canadian talent, allocated as follows:
 - \$510,000 to its “Making of a Band” program, to provide sustained support for three local artists or bands, including playlist rotation for two singles from the winning band’s CD on all format-compatible Newcap stations in Canada.
 - \$450,000 to the Radio Starmaker Fund.
 - \$ 40,000 to support a summer music skills clinic.

The Commission reminds the licensee that all Canadian talent development (CTD) expenditures must be made in accordance with the Commission’s policy on qualifying contributions to CTD, as set out in Appendix 1 to *An FM policy for the nineties*, Public Notice CRTC 1990-111, 17 December 1990.