



## Broadcasting Decision CRTC 2006-634

Ottawa, 21 November 2006

**My Broadcasting Corporation**  
Napanee, Ontario

*Application 2006-0313-5  
Public Hearing in Québec, Quebec  
11 September 2006*

### English-language FM radio station in Napanee

*The Commission **approves** the application by My Broadcasting Corporation for a broadcasting licence to operate an English-language FM radio station in Napanee, Ontario.*

#### The application

1. The Commission received an application by My Broadcasting Corporation (MBC) for a broadcasting licence to operate a new English-language, commercial FM radio programming undertaking in Napanee, Ontario. The station would operate at 88.7 MHz (channel 204B) with an average effective radiated power (ERP) of 5,000 watts.
2. The applicant proposed to offer an Adult Contemporary music format. Over 90% of the proposed station's programming would be local while the remainder of the programming would be drawn from its sister station, CHMY-FM Renfrew. The station would broadcast at least two hours of programming in Aboriginal languages during each broadcast week.
3. The spoken word programming would include local news, weather, traffic and sports as well as community announcements and coverage of community events. In addition, MBC would produce a one-hour program entitled *Kwe-Kew*, which would highlight the Tyendinaga Mohawk Territory. This program would feature Canadian Aboriginal music and artists. A portion of *Kwe-Kew* would be broadcast in the Mohawk language.
4. The applicant stated that it would accept a condition of licence specifying that a minimum of 38% of all musical selections drawn from category 2 (Popular Music) broadcast both during each broadcast week and between 6:00 a.m. and 6:00 p.m., Monday to Friday, would be Canadian selections.
5. MBC stated that it would promote Canadian talent through a planned weekly, hour-long feature highlighting the talents of local musicians. The applicant indicated, however, that it would not participate in the Canadian talent development (CTD) plan created by the Canadian Association of Broadcasters. Instead, MBC proposed to contribute \$2,000 in

each broadcast year in eligible direct cost expenditures for CTD for seven consecutive broadcast years upon commencement of operations. The applicant agreed to accept a condition of licence requiring adherence to this commitment.

## **Interventions**

6. The Commission received interventions in support of and in opposition to this application, as well as one comment.
7. CHUM Limited did not oppose the application but asked that MBC be subject to a condition of licence prohibiting the solicitation of local advertising in the City of Kingston.
8. The Canadian Independent Record Production Association (CIRPA) opposed MBC's proposed \$2,000 financial contribution to CTD to third-party initiatives like the Napanee Fair and the Celtic Festival because it was of the view that neither festival is focused on music. CIRPA further stated that this financial contribution would have little to no actual benefit in furthering the development of Canadian talent or Canadian recordings suitable for radio airplay. CIRPA added that radio stations should not be allowed to use sponsorship of non-music related events, or events where music is an adjunct to the main programming, to boost their profile within the community at the expense of contributions that would have a direct impact on the development of Canadian recording artists.
9. Interventions opposing the application were also filed by Starboard Communications Ltd. (Starboard), licensee of CJOJ-FM and CHCQ-FM Belleville; K-ROCK 1057 Inc. (K-ROCK), licensee of CIKR-FM Kingston; Mohawk Nation Radio; and Quinte Broadcasting Company Limited (Quinte), licensee of CJTN-FM Quinte West (Lite 107.1).
10. Starboard expressed concern about the proposed station's coverage area and market. Starboard stated that the large area to be covered actually encompasses two separate established radio markets, Belleville and Kingston. Starboard argued that nothing prevented the applicant from taking revenue from Belleville and Kingston and submitted that the Belleville market could not support the introduction of another new FM station.
11. K-ROCK submitted that the format proposed by MBC contradicted its own research and appeared to be designed as a niche format for the larger Kingston market. K-ROCK also noted that the proposed coverage area for the station contained a population that was far greater than the community that MBC proposed to serve. K-ROCK anticipated that MBC would seek to enter the neighbouring Kingston and/or Belleville markets since its business plan is flawed. K-ROCK argued that this would cause financial harm to stations operating in the unprofitable Kingston market. It concluded that the proposed station would barely contribute to the Canadian broadcasting system in terms of local programming and CTD.

12. Mohawk Nation Radio opposed MBC's application on technical grounds, indicating that it intended to apply for a Type B Native Radio undertaking at 88.7 MHz to serve Mohawks in the Bay of Quinte area. Mohawk Nation Radio submitted that 88.7 MHz was the last acceptable frequency that would allow it to reach the Mohawk population of the Bay of Quinte area. It argued that the Mohawk culture deserves far greater reflection than the applicant's proposed two-hour token Aboriginal show that would likely be broadcast at an off-peak time.
13. Quinte submitted its concerns about the proposed station's format, power and revenues. Quinte stated that the format proposed by MBC would significantly duplicate the format provided by its FM station, CJTN-FM. Quinte indicated that the contours of the proposed station would provide a good signal in Belleville thus making it possible for MBC to seek revenues from the central market area of Belleville-Trenton, which would have a deleterious effect on that fragile market. Quinte also submitted that the applicant's business plan explicitly states that it wishes to derive revenues from part of the Belleville-Trenton Central Market Area.

#### **MBC's replies**

14. In its reply to CHUM Limited, MBC stated that it had no intention of soliciting advertising revenue from the Kingston market and that it would be willing to accept a condition of licence to that effect. However, MBC argued that such a condition was not necessary and expressed concern that this type of arrangement would not be a "two-way" street in that Kingston stations would not be prohibited from soliciting advertising in Napanee.
15. In a joint reply to Starboard, K-ROCK and Quinte, MBC stated that its application was to serve Greater Napanee, that it had no interest in the Kingston or Belleville markets, and that it would be willing to accept a condition of licence not to solicit advertising in those markets.
16. With regard to the concerns about the coverage area and power, MBC pointed out that because of its choice of 88.7 MHz and transmitting location, a 5 kW transmitter was required to reach Greater Napanee. MBC added that, unfortunately, this technical scenario would add coverage to a portion of the Belleville Central Market Area.
17. MBC stated that its proposed station would be broadcasting to, originating from, and only interested in the Greater Napanee community. In reply to concerns over the possible duplication of other stations' formats, MBC indicated that local content would override the similarities in the music formats.
18. MBC stated that its staffing projections were based on the model of the other MBC small market stations, and by comparing them with the reality of area broadcasters. MBC further indicated that it is committed to its revenue forecasts, noting that, in a small market, 90% or more of the revenue is derived from local sales. MBC submitted that the examples provided by Quinte and K-ROCK are for markets that are much larger in population. It stated that it is focused on its expertise, local sales, and that it has spent a

great deal of time and resources on training staff about how to understand and help a local business. MBC noted that Greater Napanee is a healthy and vibrant community that has two local newspapers, which is very rare for a small market. It noted that neither of the local papers submitted an intervention with concerns about the impact of the proposed station on its revenues.

19. In reply to the interventions by Quinte and Starboard to the effect that Greater Napanee does not deserve a local station because of the high level of service it already receives, MBC noted the numerous letters of community support for its application to provide a local service to Greater Napanee.
20. In reply to Mohawk Nation Radio, MBC stated that there would appear to be a conflict of interest in that the person who signed the intervention is a full-time employee of Quinte. When preparing the application, MBC stated that it was provided with three possible available frequencies that would work in the area. In an effort to make best use of the spectrum, MBC selected 88.7 MHz as it was the most appropriate frequency given its intent to serve the Greater Napanee area. If Mohawk Nation Radio were licensed, MBC stated that it would be pleased to enter into an agreement under which Mohawk Nation Radio would be permitted to use, at no charge, the MBC broadband antenna that would be located at the CTV tower. MBC would also allow Mohawk Nation Radio to access the MBC technical hut at the base of the tower and would provide technical assistance if required.
21. MBC did not reply to CIRPA's intervention.

### **Commission's analysis and determinations**

22. The Commission has carefully considered and assessed the submissions of all parties.
23. Greater Napanee, which has a population of 15,132 according to the 2001 Census, is situated between the Belleville-Trenton and Kingston radio markets. The Kingston market is more than nine times larger than Napanee, and the Belleville-Trenton market is more than five times larger. The Commission notes, however, that the 3 mV/m contour of the proposed station would overlap only a portion of the Belleville-Trenton market while the 0.5 mV/m contour would overlap the Kingston market. In addition, it is expected that a portion of the advertising revenue generated by the proposed station would be new radio advertising revenue. Taking these factors into account, and based on a comparison of the amount of advertising revenue reflected in MBC's financial projections and the size of the Belleville-Trenton and Kingston radio markets in terms of 2005 advertising revenue, the Commission is satisfied that the proposed station would not have a significant negative financial impact on the Belleville-Trenton or the Kingston radio market. The Commission therefore does not consider it appropriate to impose conditions of licence that would prohibit MBC from soliciting advertising in those markets.

24. The Commission is also satisfied that the application by MBC will permit the establishment of a first local radio service in Napanee. The evidence provided by the applicant regarding the economic strength of the Napanee community, the market research conducted to support the proposed service, as well as the support from local residents and the business community provides the Commission with confidence that the Napanee area can support a dedicated local service.
25. The Commission notes that the proposed levels of Canadian content for category 2 musical selections exceeds the minimum regulatory requirements, and will therefore provide enhanced exposure for Canadian music. **Conditions of licence** requiring the applicant to adhere to its commitments are set out in the appendix to this decision.
26. With respect to the concerns raised by Mohawk Nation Radio that the Commission would authorize the use of the last acceptable frequency that would allow Mohawk Nation Radio to reach the Mohawk population in the Bay of Quinte area, the Commission agrees with MBC that a few other frequencies are available for radio broadcasting in this area.
27. MBC will devote an annual minimum of \$2,000 in direct CTD contributions to third-party initiatives like the Napanee Fair and the Celtic Festival over seven consecutive broadcast years upon commencement of operations, for a total expenditure of \$14,000. The Commission would like to remind the applicant that all CTD expenditures must be made in accordance with the Commission's policy on qualifying contributions to CTD, as set out in Appendix I to *An FM policy for the nineties*, Public Notice CRTC 1990-111, 17 December 1990. A **condition of licence** requiring the applicant to adhere to its CTD commitments is set out in the appendix to this decision.
28. In light of the above, the Commission **approves** the application by My Broadcasting Corporation for a broadcasting licence to operate the English-language, commercial FM radio programming undertaking in Napanee. The station will operate at 88.7 MHz (channel 204B) with an average ERP of 5,000 watts.
29. The licence will expire 31 August 2013 and 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. The licence will also be subject to the **conditions** set out in the appendix to this decision.

### **Issuance of the licence**

30. The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.

31. The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.
32. Furthermore, the licence for this undertaking will be issued once 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 21 November 2008. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

### **Employment equity**

33. In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the applicant to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

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 2006-634

### Conditions of licence

1. The licence is 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 38% 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 38% 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. The licensee shall, upon commencement of operations, make direct annual expenditures of at least \$2,000 for the development and promotion of Canadian talent.

The Commission reminds the licensee that contributions to Canadian talent development must be made in accordance with Appendix 1 to *An FM policy for the nineties*, Public Notice CRTC 1990-111, 17 December 1990.