



## Broadcasting Decision CRTC 2005-253

Ottawa, 23 June 2005

**Newcap Inc.**  
Ottawa, Ontario

*Application 2004-0372-5  
Public Hearing in the National Capital Region  
1 December 2004*

### English-language alternative rock FM radio station in Ottawa

*The Commission **approves** the application by Newcap Inc. (Newcap) for a broadcasting licence to operate an English-language commercial FM radio station in Ottawa, Ontario. The station will operate in an Alternative Rock format, targeted to youth and young adults.*

*Newcap's application is one of four applications approved today for broadcasting licences to carry on new FM radio stations to serve Ottawa, Ontario/Gatineau, Quebec. The Commission's general approach to these and other radio applications considered at the 1 December 2004 Public Hearing in the National Capital Region is set out in Introduction to Broadcasting Decisions CRTC 2005-253 to 2005-257 – Licensing of new radio stations to serve Ottawa, Ontario/Gatineau, Quebec, *Broadcasting Public Notice CRTC 2005-64*, also issued today.*

### Introduction

1. The Commission received an application by Newcap Inc. (Newcap) for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Ottawa, Ontario at 88.5 MHz (channel 203C1) with an effective radiated power (ERP) of 5,200 watts. Newcap proposed to operate the station in an Alternative Rock format, targeted to youth and young adults.
2. Newcap is a wholly-owned subsidiary of Newfoundland Capital Corporation Limited, which is ultimately controlled by Mr. Harold R. Steele. Newcap operates a number of radio stations throughout Atlantic Canada as well as, directly or indirectly, radio stations in Ontario and Alberta. Newcap is the licensee of CIHT-FM Ottawa, a radio station that is dedicated to rhythmic/contemporary hit music aimed at an audience in the 18 to 44 age range with a particular focus on females.

3. The Commission considered Newcap's application at a public hearing convened in the National Capital Region on 1 December 2004. At the hearing, the Commission examined a total of sixteen applications for new radio services in the Ottawa, Ontario/Gatineau, Quebec (Ottawa/Gatineau) market: ten for English-language services and six for French-language services. The Commission's general approach to the radio applications considered at the 1 December 2004 public hearing is set out in *Introduction to Broadcasting Decisions CRTC 2005-253 to 2005-257 – Licensing of new radio stations to serve Ottawa, Ontario/Gatineau, Quebec*, Broadcasting Public Notice CRTC 2005-64, also issued today (Public Notice 2005-64). Based on the record of the hearing, the Commission considers that the Ottawa/Gatineau market can accommodate two new English-language commercial radio stations, one new French-language commercial radio station and one English-language low-power tourist information radio station.

## **Interventions**

4. The Commission received several interventions that supported this application or commented on the proposal. In addition, Christian Hit Radio Inc. (Christian Hit), the licensee of CHRI-FM Ottawa, Global Communications Limited (Global), the licensee of CIII-TV-6 Ottawa, Shawn Scallen, and Norm Wright and Brian Perkin (Wright/Perkin) opposed the application.
5. Christian Hit and Global were also applicants at the 1 December public hearing. Christian Hit expressed concern that the approval of Newcap's application for the use of 88.5 MHz has the potential to cause intermediate frequency (IF) interference to CHRI-FM. For its part, Global submitted that the application did not appear to comply with the Department of Industry's (the Department) technical rules with regard to the protection of CIII-TV-6's signal from interference. Specifically, Global claimed that the ERP proposed by Newcap exceeded the maximum ERP permitted by the Department under its *Broadcasting Procedures and Rules, Part 3*, as it addresses the co-location of FM and TV channel 6 operations.
6. Mr. Scallen objected to the proposed use of 88.5 MHz for a commercial radio station. He contended that the frequency should be used for a non-commercial ethnic or community radio station.
7. Wright/Perkin opposed the use of 88.5 MHz to provide a radio service in the Ottawa/Gatineau market. The interveners noted that they had filed an application with the Commission on 23 July 2004 for a new FM radio station to serve Perth, Ontario that would operate at 88.5 MHz with an ERP of 700 watts (average) and 1,350 watts (maximum). Wright/Perkin stated that awarding 88.5 MHz to one of the applicants to serve the Ottawa/Gatineau radio market would preclude the use of that frequency in Perth. Wright/Perkin submitted that 88.5 MHz was the best available frequency to serve Perth and requested that the Commission reserve judgement on awarding that frequency until their application was considered.

8. An intervention containing a combined comment by the Canadian Diversity Producers Association, the Ottawa Chapter of the Chinese Canadian National Council and the National Organization of Immigrant and Visible Minority Women of Canada is addressed in Public Notice 2005-64.

#### **Applicant's replies**

9. In response to Christian Hit, Newcap stated that the likelihood of IF interference to CHRI-FM would be minimal because neither CHRI-FM nor Newcap's proposed station would be operating at the maximum technical parameters that are permissible for a class C1 frequency. In response to Global, Newcap stated that it would conduct on-air testing of the new station in order to identify and remedy any interference in a manner that would be acceptable to both Global and the Department. At the hearing, Newcap stated that it was "confident that any minor problems that potentially could arise from our frequency or use of this frequency can be easily resolved." The applicant did not respond to Mr. Scallen's intervention or to the intervention by Wright/Perkin.

#### **Commission's analysis and determination**

10. The Commission acknowledges all of the interventions and comments received in connection with this application and has taken them into account in arriving at its decision. With respect to the concerns raised by Christian Hit and Global, the Commission has noted Newcap's commitment to work to resolve any technical problems. The Commission further notes that the Department has indicated that Newcap's application is conditionally technically acceptable, as proposed. With respect to Mr. Scallen's intervention, the Commission considers that the use of 88.5 MHz need not be restricted to non-commercial FM stations.
11. With respect to the intervention by Wright/Perkin, the Commission notes that 88.5 MHz is not a frequency allocated by the Department, but rather a drop-in frequency for both Perth and Ottawa/Gatineau. The Commission further notes that the applications to serve the Ottawa/Gatineau radio market that proposed the use of this frequency were filed prior to the application submitted by Wright/Perkin. As well, Newcap, and all the other applicants proposing the use of 88.5 MHz for Ottawa/Gatineau, proposed to operate with an ERP that would be considerably greater than that proposed by Wright/Perkin. Furthermore, in response to questioning at the hearing, Wright/Perkin conceded that they had not requested any technical studies from their consulting engineer regarding an alternative frequency that may yet be available for use in Perth. In light of the foregoing, the Commission determines that there is no need to delay its decisions on the applications for new radio services in Ottawa/Gatineau. The Commission encourages Wright/Perkin to explore other technical options with respect to their proposal for a new FM station to serve Perth.

12. The Commission considered Newcap's application using the framework set out in *Introductory Statement – Licensing new radio stations*, which appeared as a preface to Decisions CRTC 99-480 to 99-482, 28 October 1999. In that statement, the Commission indicated that, pursuant to its *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998 (the Commercial Radio Policy), there are four factors that are generally relevant to the evaluation of competing commercial radio applications. These factors are:

- quality of the application;
- diversity of news voices in the market;
- likely impact on the market of a new entrant or entrants; and
- competitive state of the market.

#### **Quality of the application**

13. The Commission generally assesses the quality of an application for a new commercial radio station by examining the following:
- local programming proposals and the benefits the applicant would bring to the community;
  - commitments to Canadian content;
  - the quality of the business plan, including the proposed format and optimal use of the proposed frequency; and
  - commitments in regard to Canadian talent development.

#### *Local programming*

14. Newcap made a commitment to provide relevant local programming targeted specifically to youth and young adults. While an Alternative Rock format is primarily music-driven, the applicant proposed to offer a minimum of 15 hours 30 minutes of spoken word programming in each broadcast week, including 5 hours 25 minutes of news and information programming. The applicant stated that the presentation of the newscasts would be specifically designed to appeal to its core audience, young males between the ages of 12 and 24, and to complement the newscasts offered by CIHT-FM, whose core audience is females between the ages of 18 and 34.
15. The proposed station would also broadcast a one-hour open-line discussion program five nights a week dedicated to the day-to-day issues facing young people, and another five hours of spoken word programming in each broadcast week, which would address music, lifestyle information and other elements of interest to its audience. With respect to the proposed, open-line program, the applicant stated that it would implement a delay system and filter calls to ensure that the content adheres to *Policy regarding open-line programming*, Public Notice CRTC 1988-213, 23 December 1988. The Commission also reminds Newcap of the requirements with respect to abusive comment, balance and high standard set out in the *Broadcasting Act* (the Act) and the *Radio Regulations*, 1986.

16. The Commission is satisfied that Newcap's plans for the use of spoken word programming will provide sufficient local reflection that meets the needs of its target audience and will add to the diversity of programming available in the Ottawa/Gatineau market.

*Canadian content*

17. Newcap proposed an Alternative Rock format targeted to youth and young adults between the ages of 12 and 34 with a primary focus on males. With respect to Canadian content levels, Newcap made a commitment that 40% of all musical selections drawn from category 2 (Popular music) broadcast during each broadcast week would be devoted to Canadian selections. The applicant also made a commitment that 40% of all category 2 musical selections broadcast between 6:00 a.m. and 6:00 p.m., Monday to Friday, would be Canadian. The applicant stated that it would adhere to these commitments as conditions of licence.
18. The Commission notes that the proposed levels of Canadian content exceeds the minimum regulatory requirement, and would therefore provide enhanced exposure for Canadian music. **Conditions of licence** requiring the applicant to adhere to its commitments are contained in the appendix to this decision.

*Quality of the business plan, including the proposed format for the station*

19. Newcap stated that the proposed station would offer a "pure" Alternative Rock format that would not include elements of classic rock, contemporary hit, rap or urban music. Most of the musical selections would be current or new releases, or selections released in the previous twelve months, and would feature performers such as Incubus, Linkin Park, Blink-182, 311, and Three Days Grace. According to Newcap, the Alternative Rock format to be offered by its proposed station would complement the Rhythmic Music/Contemporary Hit Radio format currently offered by its Ottawa station CIHT-FM and these two stations would together provide the most appealing genres of music for listeners between the ages of 12 and 34, a demographic group that, in the applicant's view, is currently underserved in the Ottawa/Gatineau market. In this regard, Newcap noted that, presently, there are only two English-language stations in the Ottawa/Gatineau market that offer programming targeted to that age group: its own station, CIHT-FM, and CKQB-FM, an Album-Oriented Rock station operated by Standard Radio Inc. (Standard). Newcap added that the formats offered by those two stations do not appeal to youth and young adults who are fans of alternative rock music, and that following the January 2004 change in format of Rogers Broadcasting Limited's (Rogers) Smiths Falls station operating at 101.1 MHz from Alternative Rock to Country, this segment of listeners in the Ottawa/Gatineau market no longer has access to a radio station that responds to its needs. Newcap submitted that its research indicated that 26% of the respondents expressed a positive interest in alternative rock music while 12% expressed a strong positive interest indicating that they would listen to a radio station offering such music all the time.

20. Newcap stated that, if its application were approved, the new station would share a general manager and other administrative and sales staff with CIHT-FM. The applicant confirmed, however, that the new station would create its own programming, have its own news staff and on-air personalities and that the program, news and music directors would be separate from CIHT-FM. The applicant also stated that its proposed use of 88.5 MHz would enable it to co-site the new transmitter at Camp Fortune, Quebec with its existing station CIHT-FM, which operates at 89.9 MHz.
21. The Commission is satisfied that Newcap has provided evidence of demand for its proposed station and has filed a high-quality business plan based on the provision of a musical format, which is currently not available in the Ottawa/Gatineau market and which will appeal to youth and young adults, a segment of the population that is presently underserved in that market. The Commission further finds that the technical parameters proposed by Newcap represent the optimal utilization of 88.5 MHz.

*Canadian talent development*

22. The applicant will not participate in the Canadian talent development (CTD) plan created by the Canadian Association of Broadcasters. Instead, Newcap proposed a number of initiatives, which would result in \$7 million in direct expenditures over seven years. This total would be based on minimum annual expenditures of \$1 million. In its written application, Newcap stated that its annual CTD budget would be allocated as follows:
- \$300,000 to the Radio Starmaker Fund;
  - \$100,000 to Aboriginal Voices Radio Network (AVRN) to fund the salary, travel and office expenses to staff a new position of co-ordinator of Aboriginal talent;
  - \$50,000 to the Nepean School of Music to support its annual three-week summer music skills clinic for youth, and to develop an intensive year-long training program for selected students who wish to form a band; and
  - \$550,000 to provide support for three local bands (at least one of which would be an alternative rock band) chosen by a panel of judges, and sustained support for the “band of the year”.
23. With respect to its proposed contribution to AVRN, the Commission reminded Newcap, as part of the application process that, in *An FM Policy for the nineties*, Public Notice CRTC 1990-111, 17 December 1990, the Commission stated that initiatives that are generally not accepted as eligible CTD expenditures include music directors' salaries and staff travel costs to music and broadcasting seminars and events.

24. When questioned on this initiative at the hearing, the applicant explained that the position would be staffed by AVRN, and that Newcap would fund the incumbent's salary, travel and office supplies and provide office space for that person at the proposed new Ottawa station. Newcap stated that one of the talent co-ordinators primary functions would be "attending numerous music industry conferences to seek out opportunities to further native music." However, Newcap did not provide information on specific types of Aboriginal CTD initiatives, did not identify the size of the CTD budget to be administered by the Aboriginal talent co-ordinator, or indicate whether that person would be responsible for overseeing and distributing any of AVRN's existing CTD expenditures. Newcap also acknowledged that the Commission might determine that this initiative did not qualify as an eligible CTD expenditure, and indicated its willingness to re-direct the proposed \$100,000 annual contribution to the Radio Starmaker Fund. At the same time, Newcap stated that it would continue to provide AVRN with office space for a talent co-ordinator, but was unable to make any commitment with respect to financial assistance in this regard.
25. The Commission notes that it has accepted salaries for talent co-ordinators in the past as valid contributions to CTD in cases where the salary formed a relatively small portion of the overall CTD commitment and where the co-ordinator was responsible for managing a specific and substantial budget for CTD. In the present case, the Commission finds that Newcap did not provide sufficient evidence to warrant the acceptance of the proposed annual contribution of \$100,000 to AVRN to staff a new position for an Aboriginal talent co-ordinator as an eligible CTD initiative. In accordance with the commitment made by the applicant at the hearing, the Commission requires Newcap to re-direct \$100,000 of its proposed annual CTD budget to the Radio Starmaker Fund. Accordingly, Newcap's commitment to the Radio Starmaker Fund is \$400,000 in direct annual expenditures.
26. The Commission is satisfied that the CTD commitments proposed by the applicant meet the eligibility criteria set out in *Contributions by radio stations to Canadian talent development – A new approach*, Public Notice CRTC 1995-196, 17 November 1995, and that its CTD plan will serve to promote and develop local, regional and national Canadian musical talent, particularly in the genre of alternative rock music. A **condition of licence** requiring the applicant to adhere to its CTD commitments is set out in the appendix to this decision.

#### **Diversity of news voices in the market**

27. In Public Notice 2005-64, the Commission found that the diversity of news voice is not a significant issue in this proceeding because Ottawa/Gatineau residents already have access to news from a large variety of sources.

#### **Market impact on existing stations**

28. In Public Notice 2005-64, the Commission determined that the Ottawa/Gatineau market could accommodate the introduction of two new English-language commercial radio stations. In its application, Newcap stated that its proposed station would provide a format aimed at an underserved audience and that the programming offered by its station

would be substantially different from that broadcast by other Ottawa/Gatineau radio stations. The applicant expected that small numbers of listeners to its proposed station would come from the audiences of a wide variety of existing Ottawa/Gatineau radio stations with the largest share coming from CKQB-FM Ottawa, which is operated by Standard. In Newcap's view, its proposed station would not have a large impact on any one of the existing stations.

29. The Commission is satisfied that approval of Newcap's proposal will contribute to programming diversity in the Ottawa/Gatineau market, and meet the needs of youth and young adults without having a significant impact on the existing radio stations in the market.

#### **Competitive state of the market**

30. The Commission generally seeks to ensure that the competitive impact of a new station on a radio market will not impinge unduly on the ability of existing stations to meet their programming responsibilities under the Act. At the same time, the Commission's predisposition lies clearly in favour of increased competition and diversity, and the improvements in the overall quality of available services that these promote. The Commission also seeks to address any competitive imbalance that may exist in the market.
31. Newcap currently operates a stand-alone English-language commercial FM station in the Ottawa/Gatineau market pursuant to a Local Sales Agreement (LSA) with Standard. The Commission considers that granting a second commercial FM licence to Newcap will enable it to compete more effectively with the dominant English-language players in the market, namely CHUM Limited, which owns two FM stations and two AM stations, and Rogers, which owns two FM stations and one AM station. In the Commission's view, the approval of Newcap's application will serve to achieve a better competitive balance among the English-language stations in the market.
32. The Commission notes Newcap's commitment that, upon approval of its present application, it would terminate the LSA with Standard. The Commission reminds the applicant that, in accordance with *The Commission's policy on local management agreements (LMAs) – Determinations concerning the appropriateness of various existing and proposed LMAs, including local sales agreements, between licensees of radio stations serving the same market*, Broadcasting Public Notice CRTC 2005-10, 31 January 2005, any party wishing to enter into an LSA, or to continue operating under an LSA must first apply to the Commission for approval.

#### **Cultural diversity**

33. In its Commercial Radio Policy, the Commission encouraged broadcasters to reflect the cultural diversity of Canada in their programming and employment practices, especially with respect to news, music and promotion of Canadian artists.



34. The Commission expects Newcap to reflect Canada's cultural diversity in the proposed station's programming and employment practices.

## **Conclusion**

35. The Commission considers that the Alternative Rock format proposed by Newcap will add to the diversity of the radio programming available in the Ottawa/Gatineau market, and respond to the needs of youth and young adults in that market, a group that is currently underserved. Newcap's commitments to spoken word programming will provide local reflection of particular interest to its target audience and its contributions to CTD will benefit Canadian artists, particularly those who are involved in alternative rock music. The Commission is satisfied that the Ottawa/Gatineau market can accommodate Newcap's proposed station without having an undue negative impact on existing radio stations. Furthermore, the Commission considers that granting a second FM radio licence to Newcap will enable it to compete more effectively in the market and will serve to achieve a better competitive balance among English-language radio stations in the market. Overall, the Commission is of the view that the new station will make an important contribution to fulfilling the requirements of the Broadcasting Policy for Canada as set out in the Act, and the objectives of the Commission's Commercial Radio Policy.
36. For all the reasons noted above, the Commission concludes that Newcap's proposal clearly represents the optimal use of frequency 88.5 MHz in Ottawa/Gatineau. The Commission therefore **approves** the application by Newcap Inc. for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Ottawa at 88.5 MHz (channel 203C1) with an ERP of 5,200 watts.
37. The licence will expire 31 August 2011 and will be subject to the **conditions of licence** set out in the appendix to this decision.
38. The Commission expects Newcap to confirm the termination of the LSA with Standard, upon issuance of the broadcasting licence for the new station.

## **Issuance of the licence**

39. 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.
40. The Commission reminds the applicant that, pursuant to section 22(1) of the 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.

41. 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 23 June 2007. 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.

### **Employment equity**

42. 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 in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*

## Appendix to Broadcasting Decision CRTC 2005-253

### 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 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. The licensee shall make direct expenditures of at least \$7 million over seven consecutive years on the development and promotion of Canadian talent, as detailed in this decision. Upon commencement of operation, this amount shall be distributed over seven consecutive broadcast years as follows:
  - \$400,000 in each broadcast year to the Radio Starmaker Fund;
  - \$50,000 in each broadcast year to the Nepean School of Music to support its annual summer music skills clinic and to develop an intensive year-long training program for selected students who wish to form a band; and
  - \$550,000 in each broadcast year to support three local bands, at least one of which will be an alternative rock band, chosen by a panel of judges and to provide sustained support for the band of the year.