



## Broadcasting Decision CRTC 2005-392

Ottawa, 11 August 2006

### **Eternacom Inc.**

North Bay and Sudbury, Ontario

*Application 2004-1292-4*

*Public Hearing in the National Capital Region*

*16 May 2005*

### **Christian music FM radio station in North Bay**

*The Commission **approves** the application by Eternacom Inc. (Eternacom) for a broadcasting licence to operate a specialty English-language commercial FM radio station in North Bay, Ontario that will broadcast Christian music. The new station will replace CJTK-FM-1 North Bay, which currently broadcasts the Christian music service provided by Eternacom's radio station CJTK-FM Sudbury.*

*The Commission also **approves** Eternacom's related request to amend the broadcasting licence for the radio station CJTK-FM Sudbury in order to delete the low-power transmitter CJTK-FM-1 North Bay.*

### **Introduction**

1. In *Call for applications for broadcasting licences to carry on radio programming undertakings to serve North Bay, Ontario*, Broadcasting Public Notice CRTC 2004-69, 15 September 2004 (Public Notice 2004-69), the Commission announced that it had received an application for a broadcasting licence to provide a commercial radio service to North Bay, Ontario. Consistent with the procedures generally followed by the Commission in such cases, it called for applications from other parties wishing to obtain a broadcasting licence to serve the North Bay market. Subsequently, in *Broadcasting Notice of Public Hearing CRTC 2005-3*, 17 March 2005, the Commission announced that it would consider two applications, one by Eternacom Inc. (Eternacom) and the other by The Haliburton Broadcasting Group Inc. (Haliburton), for new English-language commercial radio stations to serve North Bay at a public hearing to be held in the National Capital Region commencing 16 May 2005.

### **The application**

2. Eternacom requested a broadcasting licence to operate a new specialty English-language commercial FM radio programming undertaking that would provide a Christian music service to listeners in North Bay. The applicant proposed to operate the new station at 103.5 MHz (channel 278A) with an effective radiated power (ERP) of 800 watts.

3. Eternacom stated that the new higher-power, protected station in North Bay would replace its low-power, unprotected transmitter, CJTK-FM-1 North Bay, which currently broadcasts the Christian music service provided by the applicant's station CJTK-FM Sudbury. Accordingly, the applicant also requested that the Commission amend the broadcasting licence for CJTK-FM Sudbury in order to delete the transmitter CJTK-FM-1 North Bay.

### **Background**

4. In *CJTK-FM Sudbury – Licence amendment*, Broadcasting Decision CRTC 2004-101, 26 February 2004 (Decision 2004-101), the Commission denied Eternacom's application to amend the licence for CJTK-FM Sudbury by changing the frequency of its transmitter, CJTK-FM-1 and changing the ERP.
5. In Decision 2004-101, the Commission stated that it expects that, when a licensee of a low-power radio undertaking files an application to change its operating class to that of a higher-powered, protected undertaking, it should present compelling evidence that its authorized technical parameters are not adequate to provide the service as it was originally proposed. Based on its analysis, the Commission found that CJTK-FM-1's authorized technical parameters were adequate and commensurate with those of the low-power service that Eternacom originally proposed for the transmitter. In the Commission's view, the applicant had not presented compelling evidence of either an economic or technical need for the proposed changes to CJTK-FM-1's signal.
6. The Commission notes that Eternacom's present application is being examined in the context of a competitive process established by Public Notice 2004-69. The competitive process allows the Commission to determine which programming service would result in the best use of the proposed frequency and, accordingly, alleviates any concern that a low-power undertaking would obtain commercially-competitive status through technical enhancements without the benefit of a call for competing applications from other parties interested in serving that market.

### **Interventions**

7. The Commission received many interventions in support of Eternacom's application. Most of the interventions were from current listeners to CJTK-FM-1 who are in favour of the improved service to North Bay that would be provided by Eternacom's proposed station. There were no opposing interventions to this application.

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

8. In the Introductory Statement to Decisions CRTC 99-480, 99-481 and 99-482, 28 October 1999, the Commission indicated that, pursuant to its *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998 (the Commercial Radio Policy), the factors set out below are generally among those relevant to the evaluation of competitive commercial radio applications:

- the quality of the application;
- the diversity of news voices in the market;
- the market impact of any proposed station on existing stations; and
- the competitive state of the market.

9. The Commission has taken each of these factors into account in its consideration of Eternacom's application.

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

10. 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 station format; and
  - commitments in regard to Canadian talent development.

#### *Local programming*

11. Eternacom indicated that, during its initial years of operation, a minimum of 50% of the programming to be aired in each broadcast week (approximately 65 hours per week) on the proposed North Bay station would be local station-produced programming. The remaining 50% of the broadcast week would consist of programming originating from its Sudbury station, CJTK-FM. The Commission notes the applicant's intention to provide 100% local programming on the proposed station by the seventh year of operations. The applicant's local programming plans include the provision of local news and information segments promoting local events and activities in North Bay and the surrounding area.

#### *Canadian content*

12. Eternacom made a commitment that a minimum of 20% of all musical selections drawn from category 3 (Special interest music) broadcast during each broadcast week would be devoted to Canadian selections. The applicant stated that it would adhere to this commitment by condition of licence.
13. The Commission notes that this proposed level of Canadian content exceeds the current 10% minimum regulatory requirement set out in the *Radio Regulations, 1986*, and would therefore provide enhanced exposure for Canadian music. A **condition of licence** requiring the applicant to adhere to its commitment is contained in the appendix to this decision.

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

14. Eternacom stated that, during each broadcast week, at least 95% of all musical selections would be drawn from subcategory 35 (Non-classic religious), as set out in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000.
15. The Commission notes that the applicant indicated in its proposed breakdown of local programming that it would devote a number of hours in each broadcast week to spoken word programming that, in the Commission's view, may be considered to be religious programming, as defined in the *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993 (Public Notice 1993-78). The Commission considers that, if the applicant does offer religious programming as defined in Public Notice 1993-78, it must adhere to the guidelines set out in that public notice with respect to the provision of balance (section III.B.2.a)) and ethics (section IV). The Commission is imposing a **condition of licence**, as set out in the appendix to this decision, requiring that, where the applicant does broadcast such religious programming, it must adhere to these guidelines.

*Canadian talent development*

16. The applicant stated that it would not participate in the Canadian talent development (CTD) plan created by the Canadian Association of Broadcasters. Instead, Eternacom proposed to devote \$33,000 in direct expenditures to CTD initiatives over seven consecutive years following the commencement of operations. The annual expenditures would be incremental as follows: \$4,000 annually in years one through three; \$5,000 annually in years four through six; and \$6,000 in year seven. The applicant indicated that the funding would be used to support local Christian music artists in the areas of recording, CD manufacturing and touring.
17. The Commission is satisfied that Eternacom had filed a high-quality application.

**Diversity of news voices in the market**

18. The Commission notes that residents of North Bay have access to many local, regional and national news broadcast sources and that approval of this application will add to this diversity.

**Market impact on existing stations and competitive state of the market**

19. Three English-language commercial radio stations are currently licensed to serve the North Bay market: CKAT, CKFX-FM and CHUR-FM. All three stations are owned by Rogers Broadcasting Limited. In 2004, the profit before interest and taxes margin for the North Bay radio market exceeded the 2004 average for all Canada of 18%.
20. North Bay is also served by CKTR-FM, a low-power FM station, which is operated by 1311831 Ontario Ltd. CKTR-FM provides an English-language tourist information service.

21. The Commission notes that CJTK-FM Sudbury is currently licensed to broadcast four minutes of advertising per hour. Eternacom indicated its willingness to accept a condition of licence limiting its new North Bay radio station to this amount of advertising. A **condition of licence** to this effect is set out in the appendix to this decision.
22. Based upon the above average profitability of the North Bay radio market over the past five years, the size of the market and the magnitude of the combined projected advertising revenues of the two new stations, the Commission concludes that the North Bay radio market is able to support Eternacom's proposed new station as well as the station proposed by Haliburton<sup>1</sup> without causing significant financial harm to the existing stations in the market.

#### **Cultural diversity**

23. 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.
24. The Commission expects Eternacom to reflect Canada's cultural diversity in the proposed station's programming and employment practices.

#### **Conclusion**

25. Based on its examination of this application, the Commission is satisfied that Eternacom's new FM station will not have a significant impact on the existing commercial radio stations operating in North Bay and will add a new local Christian music programming service that will increase the musical and programming diversity available to North Bay audiences. The new station will also increase the diversity of editorial voices in the market.
26. Accordingly, the Commission **approves** the application by Eternacom Inc. for a broadcasting licence to operate a specialty English-language commercial FM radio programming undertaking in North Bay that will broadcast Christian music. The station will operate at 103.5 MHz (channel 278A) with an ERP of 800 watts.
27. The Commission also **approves** the applicant's request to amend the broadcasting licence for the radio programming undertaking CJTK-FM Sudbury in order to delete the transmitter CJTK-FM-1 North Bay.

---

<sup>1</sup> In *English-language FM radio station in North Bay*, Broadcasting Decision CRTC 2005-393 also issued today, the Commission approves the application by The Haliburton Broadcasting Group Inc.

28. The licence for the new station will expire 31 August 2011 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 conditions of licence number 5 and 8. The licence will also be subject to the **conditions** set out in the appendix to this decision.

### **Issuance of the licence**

29. 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.
30. 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.
31. 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 11 August 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**

32. In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee 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 each 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 2005-392

### 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 conditions of licence number 5 and 8.
2. The licensee shall operate the station within the Specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
3. A minimum of 95% of all musical selections broadcast during each broadcast week shall be drawn from subcategory 35 (Non-classic religious), as set out in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000.
4. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(3) of the *Radio Regulations, 1986*, in any broadcast week, devote in that broadcast week a minimum of 20% of its musical selections from content category 3 to Canadian selections.

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*.

5. The licensee shall broadcast, in any broadcast week, no more than 10% hit material as defined in *Revised policy on the use of hits by English-language FM radio stations*, Public Notice CRTC 1997-42, 23 April 1997.
6. Upon commencement of operation, the licensee shall devote \$33,000 over seven consecutive years in direct expenditures to support the development of Canadian talent based upon the following annual budgets: Years 1, 2 and 3 - \$4,000 annually, Years 4, 5 and 6 - \$5,000 annually and Year 7 - \$6,000.
7. The licensee shall broadcast a maximum of four minutes of commercial messages in each broadcast hour.
8. Where the licensee broadcasts religious programming as defined in the *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV. of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.

