



Broadcasting Decision CRTC 2005-576

Ottawa, 5 December 2005

Newcap Inc.

St. John's, Newfoundland and Labrador

Application 2004-0871-7

Broadcasting Public Notice CRTC 2005-58

10 June 2005

CJYQ St. John's – Licence renewal

The Commission renews the broadcasting licence for the radio programming undertaking CJYQ St. John's, from 1 January 2006 to 31 August 2010.

The application

1. The Commission received an application by Newcap Inc. (Newcap) to renew the broadcasting licence for the commercial radio programming undertaking CJYQ St. John's. The licence expires 31 December 2005.¹

Background

2. In *Transfer of the ownership and control of VOXM and VOXM-FM St. John's, and of five other radio stations in Newfoundland*, Decision CRTC 2000-141, 4 May 2000, the Commission approved an application by Newcap for the acquisition of the radio stations in Newfoundland owned by VOXM Radio Newfoundland Limited (Radio VOXM), including CJYQ St. John's. The approval was conditional upon Newcap submitting, within 90 days of the date of the decision, an application requesting the addition of conditions to CJYQ's licence requiring it to:
 - “broadcast, as an exception to the percentage of Canadian content required under the *Radio Regulations, 1986*, a minimum of 40% Canadian content in Category 2 musical selections during the broadcast week and during the period between the hours of 6:00 a.m. and 6:00 p.m. throughout the broadcast week;
 - broadcast Newfoundland musical selections representing a minimum of 20% of all Category 2 musical selections aired during the broadcast week and during the period between the hours of 6:00 a.m. and 6:00 p.m. throughout the broadcast week;

¹ In *Administrative renewal*, Broadcasting Decision CRTC 2005-406, 15 August 2005, the licence for this undertaking was renewed from 1 September 2005 to 31 December 2005.

- produce and distribute during each broadcast week, eight hours per week of Newfoundland-based programming for broadcast on each of the stations being acquired from Radio VOXM; and
 - expend a minimum of \$100,000 over seven years on the production of compact discs and demonstration recordings to assist artists specializing in the performance of traditional Newfoundland music.”
3. Newcap submitted the requested application, and the amendments were subsequently approved in *Addition of conditions to the licence for CJYQ*, Decision CRTC 2000-399, 5 October 2000 (Decision 2000-399).

Complaint

4. In January 2005, the Commission received a letter of complaint from Mr. Jeff Rose-Martland, who alleged that Newcap had failed to abide by the conditions of CJYQ’s licence that had been added in Decision 2000-399. Mr. Rose-Martland further submitted that, during each broadcast week, the licensee was not producing and distributing eight hours of Newfoundland-based programming for broadcast on each of the stations acquired from Radio VOXM.
5. Mr. Rose-Martland also alleged that commitments made to promote the performing arts and performers, in artist interviews and comedy selections, were not reflected in CJYQ’s programming. Mr. Rose-Martland made further suggestions regarding the licensee’s practices in respect of its contributions to Canadian talent development (CTD).

Licensee’s reply

6. In reply to Mr. Rose-Martland’s complaint, and in response to the Commission’s request for additional information, Newcap stated that CJYQ had been operating in compliance with the condition of its licence that required a minimum of 40% Canadian content. Newcap added that the minimum had, in fact, been exceeded by playing more than 90% Canadian music. Newcap further indicated that, while a minimum of 20% Newfoundland musical selections had been required, that music actually approached 90%.
7. With respect to Mr. Rose-Martland’s allegations regarding CTD contributions, Newcap indicated the allegations were totally false. Newcap stated that it had committed to contribute \$1,116,500 to the development of Canadian talent over a seven-year period, and that many new, original programs had been created as a result of the special focus on Newfoundland culture on CJYQ.
8. With respect to the suggestion that CJYQ was failing to conform to the condition requiring the licensee to “produce and distribute during each broadcast week eight hours of Newfoundland-based programming for broadcast on each of the stations acquired from Radio VOXM”, Newcap stated that, after less than a year of ownership, “... we

found there were other ways to deliver programming that had much greater merit in the local community. Locally produced programs in the same genre provided far better opportunities of exposure for the local performer and the ensuing programming information exchanges created Province-wide opportunity.”

9. However, Newcap stated, in a letter dated 21 March 2005, that “We wish to reiterate our commitment to comply with the letter of the Regulations and within the spirit of providing programming and within the framework of the conditions which we fully accept. We will therefore immediately return to creating these eight hours at CJYQ and delivering the programming to the VOXM stations for airplay.”

Interventions to renewal application

10. The Commission received numerous interventions in support of the renewal of CJYQ’s licence, and one intervention opposing the renewal, from Mr. Rose-Martland, who again highlighted Newcap’s failure to provide the eight hours of Newfoundland-based programming on the stations acquired from Radio VOXM.
11. Further, according to Mr. Rose-Martland, Newcap had failed to deliver on its other promises for CJYQ, and has reduced the airplay of local artists on their three primary holdings in St. John’s. CJYQ’s lack of promotion, visibility, and live announcers prevents it from providing the local talent support Newcap had promised. Mr. Rose-Martland also stated that, in his view, CJYQ’s website has not been properly developed, and is an ineffective tool for promoting Canadian talent.

Licensee’s reply

12. The licensee admitted that Mr. Rose-Martland was partly correct when he said that Newcap had failed to provide eight hours of Newfoundland-based programming on the stations acquired from Radio VOXM. Newcap stated, however, that once it became aware of the situation, it took immediate action to meet the required eight hours of programming on these stations.
13. According to Newcap, Mr. Rose-Martland’s remaining allegations are without merit. Local programming in the St. John’s area has not been reduced; in fact in the licensee’s view, the opposite has occurred. Newcap indicated that VOXM, VOXM-FM, CKIX-FM and CJYQ all have featured local artists from many different genres in increasing rotation.
14. Newcap further indicated that Radio VOXM has been twice nominated as “Radio Station of the Year” at the East Coast Music Awards. The licensee also stated that Newcap’s stations in Newfoundland having several times won “Outstanding Company of the Year” awards from the Music Industry Association of Newfoundland and Labrador shows that Newcap’s efforts to promote the artists in the province are appreciated and applauded.

15. Newcap expressed the view that Mr. Rose-Martland's allegations concerning Radio VOCM's website are unfounded. The website is very popular with local, national and international audiences, and has overcome initial technical problems that were based solely on heavy listener usage. Newcap indicated that it had made a significant investment to increase the capacity of the website.
16. Finally, the licensee pointed out that it has received numerous positive expressions of support for the renewal of the licence.

Commission's analysis and determination

17. The Commission completed an analysis of the programming broadcast by CJYQ during the week of November 17 to 23, 2002. The results show that the station exceeded the requirement of its condition of licence requiring the broadcast of at least 40% Canadian music by broadcasting 97.3% Canadian selections during the broadcast week and 97.6% during the hours 6 a.m. to 6 p.m. that week. The analysis also revealed compliance with CJYQ's condition of licence requiring that, between 6:00 a.m. and 6:00 p.m., at least 20% of all category 2 musical selections be Newfoundland musical selections.
18. Further, the Commission examined the annual returns of CJYQ which revealed that the licensee has complied with the condition of licence regarding the production of compact discs and demonstration recordings. The Commission is also satisfied that the licensee is fulfilling its commitment to contribute \$1,166,500 to the development of Canadian talent over the licence term, representing \$166,643 per year.
19. However, after reviewing the correspondence regarding Mr. Rose-Martland's complaint and intervention, the Commission finds that, between late 2001 and the spring of 2005, the licensee failed to comply with the condition of licence requiring the production and distribution of eight hours of Newfoundland-based programming during each broadcast week for broadcast on each of the stations acquired from Radio VOCM. The Commission notes the licensee's explanation for the lack of compliance, and that Newcap has taken steps to ensure its ongoing compliance.
20. Based on its review of this licence renewal application and the licensee's past performance, the Commission **renews** the broadcasting licence for the commercial radio programming undertaking CJYQ St. John's, from 1 January 2006 to 31 August 2010. This short term will enable the Commission to assess at an early date the licensee's compliance with all of the conditions of CJYQ's licence assumed by Newcap following its acquisition of the stations owned by Radio VOCM.
21. 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, as well to the **conditions** set out in the Appendix to this decision.

Employment equity

22. 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 2005-576

Conditions of licence

1. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 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.
2. The licensee shall devote, during each broadcast week, and during the period between 6:00 a.m. and 6:00 p.m. during each broadcast week, a minimum of 20% of all musical selections from content category 2 to Newfoundland musical selections.
3. During each broadcast week, the licensee shall produce and distribute a minimum of eight hours of Newfoundland-based programming for broadcast on VOXM, VOXM-FM, CKIX-FM and CJYQ (the stations acquired by Newcap Inc. from VOXM Radio Newfoundland Limited).
4. The licensee shall expend a minimum of \$100,000 over seven years on the production of compact discs and demonstration recordings to assist artists specializing in the performance of traditional Newfoundland music.

For the purposes of these conditions, 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*.