



Broadcasting Decision CRTC 2006-324

Ottawa, 2 August 2006

CHUM Limited
Calgary, Alberta

Application 2005-0894-7
Public Hearing at Calgary, Alberta
21 February 2006

Hot Adult Contemporary FM radio station in Calgary

*In this decision, the Commission **approves in part** an application by CHUM Limited (CHUM) for a broadcasting licence to operate a new English-language commercial FM radio station in Calgary. However, CHUM must, within three months of the date of this decision, submit for the Commission's approval an amendment to its application proposing the use of another frequency and technical parameters for use in the Calgary market that are acceptable to the Commission and the Department of Industry.*

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. CHUM owns 33 radio stations across Canada, as well as television stations and analog and digital specialty services.
5. CHUM proposed to establish an English-language commercial FM radio station that would operate at 90.3 MHz (channel 212C1) with an effective radiated power (ERP) of 100,000 watts. The proposed station would offer a Hot Adult Contemporary music format designed to appeal to listeners between 25 and 44 years of age, with a core audience of women between 25 and 34. A minimum of 35% of all musical selections from content category 2 (Popular Music) broadcast both during the broadcast week and between 6 a.m. and 6 p.m. Monday through Friday would be Canadian selections, which conforms to the minimum requirements set out in the *Radio Regulations, 1986* (the Regulations).
6. The proposed station would broadcast 7 hours and 15 minutes of scripted spoken word programming each broadcast week, including 4 hours of news.
7. The applicant indicated that it would participate in the Canadian talent development (CTD) plan created by the Canadian Association of Broadcasters. CHUM would devote \$640,000 to CTD per year, resulting in a total of \$4.480 million in direct expenditures over seven consecutive broadcast years upon commencement of operations. Annual expenditures would be allocated as follows:

- \$62,000 to support the Emerging Indie CD series – a series of CDs featuring new independent Canadian artists
 - \$15,000 to support Alberta’s Own Independent Music Festival
 - \$61,500 for the Calgary Café Series, a series of live lunch time concerts in downtown locations
 - \$65,000 to support the staging and marketing of an Alberta musician’s showcase during Canadian Music Week
 - \$118,250 to support the Fund to Assist Canadian Talent on Records (FACTOR)
 - \$118,250 to support the Radio Starmaker Fund
 - \$200,000 to support the Music Education Program of the Canadian Academy of Recording Arts and Sciences
8. In addition, CHUM proposed to contribute \$645,000 a year, for a total of \$4.515 million over seven consecutive broadcast years to Aboriginal Voices Radio (AVR) to ensure the establishment and expansion of AVR’s planned operations in Calgary and other parts of Western Canada. CHUM indicated that it would make the first-year contribution to AVR within 90 days of the Commission approving the application.

Interventions

9. The Commission received numerous interventions in support of this application, and interventions offering general comments were submitted by the Canadian Independent Record Production Association (CIRPA) and Corus Entertainment Inc. (Corus). Opposing interventions were received from Pattison, one of the applicants in this proceeding, and Mr. Dennis Burton (Burton) who operates a cable FM radio service in Calgary.
10. CIRPA indicated that it generally supported applicants that offered higher levels of Canadian musical selections, contributed to diversity of ownership in the marketplace and offered 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 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. Corus, licensee of three existing commercial radio stations serving Calgary, recommended that any of the applicants in this proceeding that receives a broadcasting licence to serve the Calgary market should make a commitment to maintain its proposed format throughout its first term of licence.
12. Burton expressed concern related to CHUM’s original proposal to operate its proposed station at 104.5 MHz (channel 283C1). Burton operates a cable FM station at 104.5 MHz in Calgary, and submitted that the approval of CHUM’s original proposal to operate at 104.5 MHz would have a negative financial impact on his station. CHUM subsequently

amended its application so that its proposed station would operate at 90.3 MHz (channel 212C1), the same frequency that Pattison has proposed to use. Pattison noted that it had been the first of the applicants to propose the use of frequency 90.3 MHz, and submitted that, should the Commission approve both the Pattison and CHUM applications, Pattison should be awarded the use of frequency 90.3 MHz.

Applicant's replies

13. In reply to Pattison, CHUM submitted that it was required to change its proposed frequency from 104.5 MHz to 90.3 MHz because NAV Canada had raised concerns relating to potential interference with aeronautical NAV/COM services in Calgary. CHUM noted that the notice of public hearing for this proceeding indicated that all 13 of the applications for Calgary and Airdrie would be treated as competitive radio applications for the Calgary market. CHUM submitted that the fact that Pattison was the first to identify frequency 90.3 MHz should have no bearing on who should be granted the right to use the frequency in the event that both CHUM and Pattison are licensed. Rather, CHUM submitted that the applicant given the right to use frequency 90.3 MHz should be the one that the Commission determines has filed the best proposal.
14. In reply to Burton, CHUM confirmed that it no longer proposed to operate at 104.5 MHz, so any concerns that the intervener might have with the CHUM application have been addressed.
15. CHUM did not reply to the interventions by CIRPA and Corus.

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 Hot Adult Contemporary format to be offered by CHUM will provide an additional choice for Calgary listeners aged 25 to 44, an age group that comprises approximately 50% of the city's population. CHUM would also devote \$4.480 million to CTD over seven consecutive broadcast years upon commencement of operations, including \$1.403 million to local initiatives which will support the careers of Calgary musical artists. In addition, CHUM has made a commitment to contribute \$645,000 each year, for a total of \$4.515 million over seven consecutive years, to AVR. While CHUM's proposed funding for AVR will not contribute directly to the development of Canadian talent, it will contribute to the achievement of the objective set out in section 3(1)(d)(iii) of the *Broadcasting Act* (the Act) which states that "the Canadian broadcasting system should, through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations of Canadian men, women and children, including ... *the special place of aboriginal peoples within that*

society (emphasis added) ... , as well as the objective set out in section 3(1)(o) of the Act which states that “programming that reflects the aboriginal cultures of Canada should be provided within the Canadian broadcasting system as resources become available for that purpose.” The Commission considers that the funding allocated by CHUM will assist AVR to implement the radio stations that it has been approved to operate in Calgary and other parts of Western Canada.

18. The Commission notes the concerns expressed by CIRPA. The Commission considers that the CTD initiatives proposed by the applicant, including its commitment to FACTOR, will provide valuable support for the development of Canadian talent.
19. With respect to the applicant’s technical proposal, the Commission stated, in Public Notice 2006-97, that it was of the view that, considering the overall quality of the applications, Newcap’s proposed service would represent optimal use of the last remaining Class C frequency in Calgary: 90.3 MHz.
20. In light of all of the above, the Commission **approves in part** the application by CHUM Limited for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Calgary. However, the applicant’s proposed use of frequency 90.3 MHz is **denied**.
21. The Commission notes the applicant’s commitments to contributions to CTD and AVR. **Conditions of licence** are set out in the appendix to this decision requiring the applicant to adhere to its commitments to minimum annual financial contributions to CTD and to AVR following the commencement of operations. The Commission expects the applicant to contribute a total of \$4.480 million to CTD and \$4.515 million to AVR over a period of seven consecutive broadcast years upon commencement of operations, as proposed.
22. 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

23. 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.
24. The Commission expects CHUM to reflect the cultural diversity of Canada in its programming and employment practices.

Employment equity

25. 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

26. Subject to the limitations set out below in paragraph 27, the licence issued to CHUM will be effective on 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.
27. The Commission will only issue the licence, and it will only be effective at such time as:
- The applicant submits, within three months of the date of this decision, an amendment to its application proposing the use of an FM frequency and technical parameters that are acceptable to both the Commission and the Department of Industry. This amended application will form part of a public process; and
 - 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 2006-324

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 (Public Notice 1999-137).
2. Upon commencement of operations, the licensee shall contribute an annual minimum of \$640,000 to the development and promotion of Canadian talent, allocated as follows:
 - \$62,000 to support the Emerging Indie CD series – a series of CDs featuring new independent Canadian artists
 - \$15,000 to support Alberta's Own Independent Music Festival
 - \$61,500 for the Calgary Café Series, a series of live lunch time concerts in downtown locations
 - \$65,000 to support the staging and marketing of an Alberta musician's showcase during Canadian Music Week
 - \$118,250 to support the Foundation to Assist Canadian Talent on Records (FACTOR)
 - \$118,250 to support the Radio Starmaker Fund
 - \$200,000 to support the Music Education Program of the Canadian Academy of Recording Arts and Sciences

The amounts set out above include those required under condition of licence 5 set out in Public Notice 1999-137. The Commission reminds the licensee that all CTD expenditures must be made in accordance with the Commission's policy on qualifying contributions to Canadian talent development, as set out in Appendix 1 to *An FM policy for the nineties*, Public Notice CRTC 1990-111, 17 December 1990.

3. The licensee shall contribute an annual minimum of \$645,000 to Aboriginal Voices Radio. The first payment of \$645,000 shall be made within 90 days of the date of this decision.