



Broadcasting Decision CRTC 2012-301

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Route reference: 2011-675

Additional references: 2011-675-3 and 2011-675-4

Ottawa, 18 May 2012

Various applicants

Miramichi, New Brunswick

*Public hearing in Miramichi, New Brunswick
16 January 2012*

Licensing of new radio stations to serve Miramichi

*The Commission **approves** an application by Newcap Inc. for a broadcasting licence to operate a new English-language commercial FM radio station to serve Miramichi.*

*In addition, the Commission **approves** an application by Miramichi Fellowship Center, Inc. for a broadcasting licence to operate a new specialty English-language FM radio station to serve Miramichi.*

*The Commission **denies** an application by Maritime Broadcasting System Limited for a broadcasting licence to operate a new radio station to serve Miramichi.*

Introduction

1. At a public hearing commencing 16 January 2012 in Miramichi, New Brunswick, the Commission considered three applications for new radio programming undertakings to serve Miramichi. The applicants were as follows:
 - Maritime Broadcasting System Limited
 - Miramichi Fellowship Center, Inc.
 - Newcap Inc.
2. As part of this proceeding, the Commission received and considered interventions with respect to each application. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
3. After reviewing the applications and the interventions, the Commission is of the view that the primary issues to be considered are as follows:
 - Can the Miramichi radio market sustain additional radio services without an

undue negative impact on existing stations?

- If so, which of the applications should be approved, in light of the factors identified in Broadcasting Notice of Consultation 2011-374 (the Call)?

The Miramichi radio market and its ability to sustain new stations

4. The Miramichi radio market is currently served by three local stations: one mainstream English-language commercial station owned by Maritime Broadcasting System Limited (Maritime); one French-language community station operated by Radio Miracadie inc. and a transmitter rebroadcasting the programming of an English-language specialty radio station in Blackville that is operated by Miramichi Fellowship Center, Inc. (MFC). The mainstream commercial station provides an Adult Contemporary format while the Specialty radio station offers a Non-classic religious format.
5. The Commission considers that the sole mainstream commercial station in the market is well established and has consistently recorded a solid financial performance.
6. Additionally, Fall 2011 BBM Canada tuning data suggest that there is a significant amount of out-of-market tuning to commercial stations located in Moncton, Bathurst and Fredericton as well as to satellite radio. The Commission is of the view that there is potential to repatriate some of this out-of-market tuning to Miramichi, which could translate into additional advertising revenues for the market.
7. In relation to potential advertising revenues, according to FP Markets (2011-2012), retail sales for Miramichi are projected to grow by a compound annual rate of just over 2% during the next five years. Furthermore, the Commission considers that an additional mainstream commercial station in Miramichi could stimulate incremental advertising sales in the market.
8. Based on the above, the Commission is satisfied that the Miramichi radio market could support the licensing of one new mainstream commercial radio station in addition to the migration of CJFY-FM from Blackville to Miramichi.
9. In Broadcasting Public Notice 2006-159, the Commission set out its general concern with the relatively lower profitability of radio markets with populations under 250,000, and signalled its intent to avoid over-licensing in such markets. In light of the above, the Commission is of the view that the licensing of one new mainstream commercial radio station and one new commercial Specialty station to serve the Miramichi market at this time is consistent with this intent.

Assessment of the applications

Applications for new mainstream commercial stations

10. Having determined that there is room in the Miramichi radio market for one

additional mainstream service, the Commission has considered the relevant applications in light of the factors pertaining to the evaluation of the applications outlined in the Call, which include the following factors set out in Decision 99-480:

- the quality of the application
- the diversity of news voices in the market
- the market impact
- the competitive state of the radio market
- the relative importance of each of the above factors

11. Details of the applications are set out in Appendix 1 to this decision.
12. Having considered all of the applications in light of the criteria set out above, the Commission finds that the proposal by Newcap Inc. (Newcap) best meets the needs of the Miramichi radio market. In the Commission's view, Newcap's proposal would introduce competition and add diversity to the market. Newcap would introduce a new editorial voice in a market that is currently served by a single local mainstream commercial station. Newcap also proposed to produce and offer a high level of spoken word programming.
13. Newcap proposed to offer a Country music format targeted to listeners between the ages of 24 and 54 years with a core audience skewed slightly to women aged 35 to 45 years. The station would broadcast 126 hours of local programming each broadcast week, including 13 hours and 7 minutes of spoken word programming, of which 3 hours would be dedicated to pure news.
14. All commercial radio licensees must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*. The Commission notes that Newcap made a commitment to exceed the minimum contribution to CCD.
15. Newcap committed to devote, over and above the basic annual contribution to CCD, a total of \$105,000 over seven consecutive broadcast years upon commencement of operations. Of this amount, at least 20% will be devoted to FACTOR. The remainder will be directed to eligible initiatives, such as the Miramichi School Music Program and the Miramichi Music Festival.
16. Finally, the Commission considers that granting a licence to Newcap to operate an English-language commercial radio station in Miramichi would not, in light of the discussion set out in paragraphs 4 to 7 of the present decision, preclude Maritime from continuing to deliver high-quality programming to the community on the incumbent station CFAN-FM Miramichi and otherwise fulfilling its regulatory obligations.

Specialty radio station

17. The Commission is of the view that the English-language specialty commercial FM station in Miramichi with a transmitter in Blackville proposed by MFC would make a valuable addition to the Miramichi radio market and notes that it would have a limited impact the other stations in the market,
18. The Commission notes that MFC currently operates the radio programming undertaking CJFY-FM Blackville with a transmitter in Miramichi. The applicant proposed to replace its current operation with the proposed undertaking in order to provide more coverage in the population centre.
19. The station would maintain CJFY-FM's Non-classic religious music format and would continue to draw a minimum of 70% of its weekly musical selections from content subcategory 35 (Non-classic religious). The proposed station would broadcast 95 hours of local programming per broadcast week and 31 hours of syndicated programming over the weekend (5 hours Canadian and 26 hours American). It would also broadcast 35 hours of spoken word programming per broadcast week, including 5 hours of pure news.
20. The applicant also committed, by condition of licence, to devote a minimum of 12% of its musical selections from content category 3 (Special Interest Music) to Canadian selections over the broadcast week.
21. The Commission notes that MFC made a commitment to exceed the minimum contribution to CCD. In this respect, MFC committed to devote, over and above the basic annual contribution to CCD, a total of \$3,500 over seven consecutive broadcast years upon commencement of operations. Of this amount, at least 20% will be devoted to FACTOR or MUSICACTION. The remainder will be directed to eligible initiatives, such as scholarships for music students from local schools or talent contests.

Conclusion

22. Based on all of the foregoing, the Commission **approves** the following application for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Miramichi:

Newcap Inc.

Application 2010-1176-7, received 20 July 2010

23. The terms and **conditions of licence** for this new service are set out in Appendix 2 to this decision.
24. At the hearing, Newcap indicated a willingness to direct some of its CCD contributions to Radio Miracadie inc. for the support and development of its French-language community FM radio station in Miramichi. The Commission encourages Newcap to do so.

25. In addition, the Commission **approves** the following application for a broadcasting licence to operate an English-language commercial specialty FM radio programming undertaking in Miramichi:

Miramichi Fellowship Center, Inc.

Application 2011-1243-2, received 30 August 2011

26. The terms and **conditions of licence** for this new service are set out in Appendix 3 to this decision.

27. In light of the above, the Commission **denies** the remaining application for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Miramichi:

Maritime Broadcasting System Limited

Application 2011-1270-6, received 12 September 2011

28. Because Newcap 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

Related documents

- *Call for applications – Radio stations to service Miramichi, New Brunswick*, Broadcasting Public Notice CRTC 2011-374, 14 June 2011
- *Revised policy concerning the issuance of calls for radio applications and a new process for applications to serve small markets*, Broadcasting Public Notice CRTC 2006-159, 15 December 2006
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999
- *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993

**This decision and the appropriate appendix are to be appended to each licence.*

Appendix 1 to Broadcasting Decision CRTC 2012-301

Details from the applications for new broadcasting licences for FM radio programming undertakings to serve Miramichi, New Brunswick

Applicant	Details from the application
<p>Newcap Inc.</p> <p>Application 2010-1176-7</p>	<p>Type: English-language commercial FM radio programming undertaking</p> <p>Technical parameters: 95.9 MHz (channel 240B1) with an average effective radiated power (ERP) of 11,000 watts (maximum ERP of 25,000 watts with an effective height of antenna above average terrain of 85.8 metres)</p> <p>Format: Country music</p> <p>Target audience: 25-54 years</p> <p>Canadian content (music): 35% category 2*</p> <p>Local programming per broadcast week***: 126 hours</p> <p>Spoken word programming per broadcast week: 13 hours, 7 minutes</p> <p>News programming per broadcast week: 3 hours, 40 minutes (news**** and related surveillance material), 75% local</p> <p>Canadian content development contribution (over the basic annual contribution): \$105,000 over seven consecutive broadcast years</p> <p>Emerging Canadian artists programming per broadcast week: 4%</p>
<p>Miramichi Fellowship Center, Inc.</p> <p>Application 2011-1243-2</p>	<p>Type: English-language commercial Specialty FM radio programming undertaking</p> <p>Technical parameters: 96.5 MHz (channel 243A) with an average effective radiated power (ERP) of 740 watts (maximum ERP of 2,000 watts with an effective height of antenna above average terrain (EHAAT) of 35 metres). The transmitter in Blackville will operate at 107.7 MHz (channel 299LP) with an ERP of 45 watts (non-directional antenna with an EHAAT of 77 metres).</p> <p>Format: Non-classic religious music</p> <p>Target audience: 14-54 years</p> <p>Canadian content (music): 35% category 2*; 12% category 3**</p> <p>Local programming per broadcast week***: 95 hours</p> <p>Spoken word programming per broadcast week: 35 hours</p> <p>News programming per broadcast week: 5 hours, 80% local</p> <p>Canadian content development contribution (over the basic annual contribution): \$3,500 over seven consecutive broadcast years</p>

<p>Maritime Broadcasting System Limited</p> <p>Application 2011-1270-6</p>	<p>Type: English-language commercial FM radio programming undertaking</p> <p>Technical parameters: 102.5 MHz (channel 273B) with an effective radiated power of 36,000 watts (non-directional antenna with an effective height of antenna above average terrain of 103.1 metres)</p> <p>Format: Country music</p> <p>Target audience: 25-54 years</p> <p>Canadian content (music): 42% category 2*</p> <p>Local programming per broadcast week***: 126 hours</p> <p>Spoken word programming per broadcast week: 9 hours, 44 minutes</p> <p>News programming per broadcast week: 4 hours 28 minutes, 70% local</p> <p>Canadian content development contribution (over the basic annual contribution): \$70,000 over seven consecutive broadcast years</p> <p>Emerging Canadian artists programming per broadcast week: 4%</p>
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* Percentages shown for category 2 musical selections (Popular Music) are for both the broadcast week and the period from 6:00 a.m. to 6:00 p.m., Monday to Friday. The definition of "broadcast week" is the same as that set out in the *Radio Regulations, 1986*.

** Percentages shown for category 3 musical selections (Special Interest Music) are for the broadcast week. The definition of "broadcast week" is the same as that set out in the *Radio Regulations, 1986*.

*** The definition of "broadcast week," as it relates to local, spoken word and news programming, is the same as that set out in the *Radio Regulations, 1986*.

**** As set out in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, "news" excludes related surveillance material, that is, weather, traffic, sports and entertainment reports.

Appendix 2 to Broadcasting Decision CRTC 2012-301

Newcap Inc.

Application 2010-1176-7, received 20 July 2010

Terms, conditions of licence and expectation

Issuance of the broadcasting licence to operate an English-language commercial FM radio programming undertaking in Miramichi, New Brunswick

Terms

The licence will expire 31 August 2018.

The station will operate at 95.9 MHz (channel 240B1) with an average effective radiated power of 11,000 watts.

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.

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.

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 **18 May 2014**. 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.

Conditions of licence

1. The licence will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. As an exception to section 15(2) of the *Radio Regulations, 1986*, the licensee may allocate to Radio Miracadie inc. for the support and development of its French-language community FM radio station in Miramichi, New Brunswick, all or part of the amount to be contributed under that section which is not otherwise required to be allocated to FACTOR or MUSICACTION.
3. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as

amended from time to time, the licensee shall, upon commencement of operations, make an annual contribution of \$15,000 (\$105,000 over seven consecutive broadcast years) to the promotion and development of Canadian content.

Of this amount, the licensee shall allocate no less than 20% per broadcast year to FACTOR or MUSICACTION. The remaining amounts of this additional CCD contribution shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 or may otherwise be allocated to Radio Miracadie inc. for the support and development of its French-language community FM radio station in Miramichi.

Expectation

Cultural diversity

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

Appendix 3 to Broadcasting Decision CRTC 2012-301

Miramichi Fellowship Center, Inc.

Application 2011-1243-2, received 30 August 2011

Terms, conditions of licence, expectation and encouragement

Issuance of the broadcasting licence to operate an English-language commercial Specialty FM radio programming undertaking in Miramichi, New Brunswick

Terms

The licence will expire 31 August 2018.

The station will operate at 96.5 MHz (channel 243A) with an effective radiated power (ERP) of 740 watts.

The transmitter in Blackville will operate at 107.7 MHz (channel 299LP) with an ERP of 45 watts.

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.

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.

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 **18 May 2014**. 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.

Conditions of licence

1. The licence will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, with the exception of condition of licence 7.
2. The station shall be operated within the specialty format as defined in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000 and *A Review of Certain Matters Concerning Radio*, Public Notice CRTC 1995-60, 21 April 1995, as amended from time to time.
3. 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* (the Regulations), as amended from time to time, in any broadcast week, devote, in that broadcast week, a minimum of 12% of its musical selections from content category 3 (Special Interest Music) to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.

For the purposes of this condition, the terms “broadcast week,” “broadcast day”, “Canadian selection,” “content category” and “musical selection” shall have the same meaning as that set out in the Regulations.

4. A minimum of 70% of all musical selections broadcast during each broadcast week shall be devoted to selections drawn from subcategory 35 (Non-classic religious).
5. 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.
6. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall, upon commencement of operations, make an annual contribution of \$500 (\$3,500 over seven consecutive broadcast years) to the promotion and development of Canadian content.

Of this amount, the licensee shall allocate no less than 20% per broadcast year to FACTOR or MUSICACTION. The remaining amounts of this additional CCD contribution shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Expectation

Cultural diversity

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

Encouragement

Employment equity

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.