



Broadcasting Decision CRTC 2014-394

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Route reference: 2013-568

Ottawa, 29 July 2014

Clear Sky Radio Inc.

Cranbrook, British Columbia

Newcap Inc.

Cranbrook, British Columbia

The application numbers are set out in Appendix 1 to this decision.

Public hearing in Surrey, British Columbia

27 January 2014

Licensing of a new radio station to serve Cranbrook

*The Commission **approves** an application by Clear Sky Radio Inc. to operate a commercial FM radio station to serve Cranbrook with transmitters in Fernie, Sparwood and Invermere.*

*The Commission **denies** an application by Newcap Inc. to operate a commercial FM radio station to serve Cranbrook with a transmitter in Fernie.*

Introduction

1. At a public hearing commencing 27 January 2014 in Surrey, British Columbia, the Commission considered applications by Clear Sky Radio Inc. (Clear Sky) and Newcap Inc. (Newcap) for new radio stations to serve Cranbrook, British Columbia.
2. As part of this process, the Commission received and considered interventions with respect to each application. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca or by using the appropriate application number, provided in Appendix 1 to this decision.
3. After reviewing the positions of the parties to this proceeding, the Commission is of the view that the primary issues to be considered are as follows:
 - Can the Cranbrook radio market sustain an additional radio service 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 2013-301 (the Call)?

The Cranbrook radio market's ability to sustain new stations

4. According to Statistics Canada, the city of Cranbrook, which is part of the East Kootenay region, counted a population of 19,319 in 2011, an increase of 5.4% since 2006. Moreover, its census agglomeration counted 25,037 persons in 2011, an increase of 3.7% since 2006.
5. The Cranbrook radio market is currently served by the English-language commercial radio stations CHBZ-FM (Country) and CHDR-FM Cranbrook (Active Rock), both of which are owned by the Jim Pattison Broadcast Group Limited Partnership (Jim Pattison).¹ CHBZ-FM has operated a transmitter in Fernie (CFBZ-FM) since 2004.² Jim Pattison also operates a third station in East Kootenay, namely, CJDR-FM Fernie, which in turn has a low-power rebroadcasting transmitter in Sparwood (CJDR-FM-1).³
6. With two stations in Cranbrook, as well as a station and a transmitter in Fernie, the Commission considers that Jim Pattison has established a solid presence as the sole operator in the Cranbrook/Fernie corridor. Its Cranbrook stations recorded, on a consolidated basis, solid financial results in 2013.
7. Additionally, the most recent BBM Canada tuning data suggest that a considerable amount of tuning in the East Kootenay region is to other platforms such as satellite radio and to out-of-market stations originating from larger markets. In the Commission's view, with the presence of only two local stations in the market, there is no saturation with regards to radio format, and significant opportunities exist to introduce a format that would cater to the needs of underserved demographic segments and potentially repatriate tuning lost to other platforms and out-of-market stations.
8. Further, although growth in advertising revenues in the Cranbrook radio market has been relatively modest, the Commission considers that the addition of a competing station in that market would likely stimulate advertising revenue growth, which would mitigate any potential impact on incumbents.
9. Based on the foregoing, the Commission is satisfied that the Cranbrook radio market could support the licensing of a new commercial radio station without experiencing any undue negative impact.
10. 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 signaled its intent to avoid over-licensing in such markets. In light of the

¹ 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

² The Commission approved the addition of a transmitter in Fernie in Broadcasting Decision 2004-490.

³ The Commission approved the addition of a transmitter in Sparwood in Broadcasting Decision 2004-489.

above, the Commission is of the view that the licensing of one new mainstream commercial radio station to serve the Cranbrook market at this time is consistent with this intent.

Assessment of the applications

11. Having determined that there is room in the Cranbrook radio market for an additional service, the Commission has considered the applications to serve Cranbrook in light of the factors relevant to the evaluation of the applications outlined in the Call, which include the factors set out in Decision 99-480:

- the quality of the application;
- the diversity of news voices;
- the competitive state of the radio market; and
- the level of market impact.

12. Details of the applications are set out in Appendix 1 to this decision.

13. Having considered all of the applications in light of the criteria set out above, the Commission finds that the proposal by Clear Sky best meets the needs of the Cranbrook radio market. In the Commission's view, Clear Sky's proposal would introduce competition and add diversity to the market. Further, Clear Sky would introduce a new editorial voice in a market that is currently served by two local mainstream stations owned by a single operator.

14. Clear Sky proposed an Adult Contemporary music format targeting listeners between the ages of 18 and 54 with a core audience skewed slightly to women aged 30 to 49 and featuring a range of adult pop music from the late 70's through today. Specifically, the proposed station would broadcast 70's, 80's, 90's and 2000's Gold, current and recurrent music styles, as well as music from emerging Canadian artists. The station would broadcast 126 hours of local programming each broadcast week, including 16 hours and 41 minutes of spoken word programming, of which 5 hours and 33 minutes would be devoted to news.

15. The Commission notes that Clear Sky committed to devote, by condition of licence, 40% of all content category 2 (Popular Music) musical selections to Canadian selections over the broadcast week and from 6 a.m. to 6 p.m., Monday to Friday, exceeding the regulatory minimum of 35%.

16. Finally, 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*, as amended from time to time. The Commission notes that Clear Sky committed to exceed the minimum contribution to CCD. Specifically, Clear Sky committed to devote, over and above the basic annual contribution to CCD,

a total of \$210,000 to CCD 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 as follows over seven years:

- \$28,000 to the East Kootenay Performing Arts Festival;
- \$28,000 to the Music in Schools Program;
- \$28,000 to the Symphony of the Kootenays;
- \$28,000 to the Cranbrook Community Theatre;
- \$28,000 to the Key City Theatre; and
- \$28,000 to the Mega Music Canadian Store.

Conclusion

17. 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 Cranbrook with transmitters in Fernie, Sparwood and Invermere:

Clear Sky Radio Inc.

Application 2011-1261-4, received 9 September 2011

18. The terms and **conditions of licence** for this new service are set out in Appendix 2 to this decision.

19. In light of the above, the Commission **denies** the following application for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Cranbrook with a transmitter in Fernie:

Newcap Inc.

Application 2013-1268-6, received 16 September 2013

Secretary General

Related documents

- *Call for applications – Radio stations to serve Cranbrook, British Columbia*, Broadcasting Notice of Consultation CRTC 2013-301, 21 June 2013
- *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
- *CHBZ-FM Cranbrook – New transmitter in Fernie*, Broadcasting Decision CRTC

2004-490, 12 November 2004

- *CJDR-FM Fernie – New transmitter in Sparwood*, Broadcasting Decision CRTC 2004-489, 12 November 2004
- *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999

**This decision is to be appended to the licence.*

Appendix 1 to Broadcasting Decision CRTC 2014-394

Details from the applications relating to broadcasting licences for radio programming undertakings to serve Cranbrook, British Columbia

Applicant	Details from the application
<p>Clear Sky Radio Inc. Application 2011-1261-4</p>	<p>Type: English-language commercial FM radio programming undertaking</p> <p>Technical parameters: 107.5 MHz (channel 298C1) with an average effective radiated power (ERP) of 1,100 watts (maximum ERP of 2,500 watts with an effective height of antenna above average terrain (EHAAT) of 1,047.5 metres). The transmitter in Fernie would operate at 107.9 MHz (channel 300A) with an average ERP of 154 watts (maximum ERP of 500 watts with an EHAAT of -572 metres). The transmitter in Sparwood would operate at 107.1 MHz (channel 296A) with an average ERP of 79 watts (maximum ERP of 500 watts with an EHAAT of -242 metres). The transmitter in Invermere would operate at 107.7 MHz (channel 299A1) with an average ERP of 22 watts (maximum ERP of 100 watts with an EHAAT of -318 metres).</p> <p>Format: Adult Contemporary</p> <p>Target audience: 18-54 years</p> <p>Canadian content (music): 40% category 2*; 10% category 3**</p> <p>Local programming per broadcast week***: 126 hours</p> <p>Spoken word programming per broadcast week: 16 hours, 41 minutes</p> <p>News programming per broadcast week: 5 hours and 33 minutes of pure news content, which includes 4 hours and 26 minutes of local and regional news, 50 minutes of national news, as well as 17 minutes of international news (news**** and related surveillance material)</p> <p>Canadian content development contribution (over the basic annual contribution): \$210,000 over seven consecutive broadcast years</p> <p>Emerging Canadian artists programming per broadcast week: 15%</p>
<p>Newcap Inc. Application 2013-1268-6</p>	<p>Type: English-language commercial FM radio programming undertaking</p> <p>Technical parameters: 96.5 MHz (channel 243C) with an effective radiated power (ERP) of 2,600 watts (non-directional antenna with an effective height of antenna above average terrain (EHAAT) of 1,054 metres). The transmitter in Fernie would operate at 91.9 MHz (channel 220A) with an ERP of 360 watts (non-directional antenna with an EHAAT of -536 metres).</p>

	<p>Format: Modern Adult Contemporary</p> <p>Target audience: 25-54 years</p> <p>Canadian content (music): 35% category 2*; 10% category 3**</p> <p>Local programming per broadcast week***: 126 hours</p> <p>Spoken word programming per broadcast week: 16 hours</p> <p>News programming per broadcast week: 1 hour and 22 minutes of news content, 75% of which is local and 25% of which is national/international (news**** and related surveillance material)</p> <p>Canadian content development contribution (over the basic annual contribution): \$175,000 over seven consecutive broadcast years</p> <p>Emerging Canadian artists programming per broadcast week: 10%</p>
<p>* Percentages shown for category 2 musical selections (Popular Music) are for both the broadcast week and the period from 6 a.m. to 6 p.m., Monday to Friday. The definition of “broadcast week” is the same as that set out in the <i>Radio Regulations, 1986</i>.</p> <p>** 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 <i>Radio Regulations, 1986</i>.</p> <p>*** The definition of “broadcast week,” as it relates to local, spoken word and news programming, is the same as that set out in the <i>Radio Regulations, 1986</i>.</p> <p>**** As set out in <i>Revised content categories and subcategories for radio</i>, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, “news” excludes related surveillance material, that is, weather, traffic, sports and entertainment reports.</p>	

Appendix 2 to Broadcasting Decision CRTC 2014-394

Clear Sky Radio Inc.

Application 2011-1261-4, received 9 September 2011

Terms, conditions of licence, expectation and encouragement for the English-language commercial FM radio programming undertaking in Cranbrook, British Columbia

Terms

The licence will take effect 1 September 2014 and will expire 31 August 2021.

The station will operate at 107.5 MHz (channel 298C1) with an average effective radiated power (ERP) of 1,100 watts (maximum ERP of 2,500 watts with an effective height of antenna above average terrain (EHAAT) of 1,047.5 metres).

The transmitter in Fernie will operate at 107.9 MHz (channel 300A) with an average ERP of 154 watts (maximum ERP of 500 watts with an EHAAT of -572 metres).

The transmitter in Sparwood will operate at 107.1 MHz (channel 296A) with an average ERP of 79 watts (maximum ERP of 500 watts with an EHAAT of -242 metres).

The transmitter in Invermere will operate at 107.7 MHz (channel 299A1) with an average ERP of 22 watts (maximum ERP of 100 watts with an EHAAT of -318 metres).

The Commission reminds the licensee that pursuant to section 22(1) of the *Broadcasting Act*, the authority for the undertaking and its transmitters will only be effective when the Department of Industry 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 and its transmitters 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 **29 July 2016**. 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 licensee shall adhere 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, as amended from time to time.
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* (the Regulations), devote:

- a) in each broadcast week, at least 40% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety; and
- b) between 6 a.m. and 6 p.m., in any period beginning on Monday of a week and ending on Friday of the same week, at least 40% of its musical selections from content category 2 (Popular Music) 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 Regulations.

- 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 \$30,000 (\$210,000 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. 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.

- 4. If the licensee originates 42 or more hours of programming in any broadcast week, the licensee shall adhere to the Canadian Association of Broadcasters’ *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.

Expectation

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

Encouragement

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.