



Broadcasting Decision CRTC 2014-505

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Ottawa, 1 October 2014

Newcap Inc.
Kelowna, British Columbia

Application 2013-1758-7

CKKO-FM Kelowna – Technical changes

*The Commission **denies** the application by Newcap Inc. to change the authorized contours of its English-language commercial radio station CKKO-FM Kelowna.*

The Commission considers that Newcap has not proposed an appropriate technical solution to deal with problems with CKKO-FM's signal in West Kelowna. The Commission is concerned that approval of the application, which would result in CKKO-FM providing a strong signal to Penticton, could have an undue negative impact on Penticton stations. This could serve to reduce the quality of service those stations provide to residents of Penticton. Approval would also undermine the integrity of the Commission's licensing process by introducing a new station to Penticton without a competitive process.

Application

1. Newcap Inc. (Newcap) filed an application to change the authorized contours of the English-language commercial radio station CKKO-FM Kelowna by relocating its transmitter to a site on top of Okanagan Mountain and by changing its transmitter class from B to C and its average effective radiated power (ERP) from 10,000 to 6,300 watts (directional antenna with a decrease in maximum ERP from 31,000 to 14,100 watts and an increase in the effective height of antenna above average terrain from 130.8 to 793 metres).
2. In Broadcasting Decision 2013-334, the Commission denied an application by Newcap to change the authorized contours of CKKO-FM exactly as proposed in the application addressed in this decision. The Commission was of the view that Newcap's proposal was not designed to improve service to the Kelowna area but rather to expand CKKO-FM's service area to include Penticton. Approval of the technical change would therefore have been akin to granting Newcap a new service for Penticton without the competitive process that would normally apply. The Commission was further concerned that approval could lead CKKO-FM to redirect programming to Penticton and could serve to draw revenue away from Penticton

stations. The Commission also considered that the proposed technical amendments were not necessary for CKKO-FM's financial viability.

3. In the current application, Newcap presented information in support of its proposal arguing that there is a technical and economic need for the technical amendment.
4. With respect to technical need, Newcap submitted that its proposal would provide maximum and best use of frequency 96.3 MHz on which CKKO-FM operates and would rectify a deficiency in CKKO-FM's signal that exists in parts of West Kelowna.¹ Newcap also argued that other frequencies are available to provide stand-alone service to Penticton if future applicants chose to apply for such a service. However, Newcap was of the view that applying for a new Penticton service would be less effective than the proposed technical amendment.
5. With respect to economic need, Newcap submitted that its financial projections show that increasing CKKO-FM's coverage area would bring the station to a level of profitability that would ensure continued service to Kelowna.
6. Newcap also reiterated its argument made in the context of its previous application that Penticton lacks format diversity and that approval of its application would provide a new format to the area and repatriate listeners who tune to classic rock via satellite radio.

Intervention and applicant's reply

7. The Commission received a joint intervention opposing the application from Jim Pattison Broadcast Group Limited Partnership (Pattison), Bell Media Inc. (Bell) and Vista Radio Inc. (Vista).² The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.
8. The interveners noted that arguments with respect to signal impairment in West Kelowna and economic need were not part of Newcap's first application that was denied in Broadcasting Decision 2013-334. They noted that the signal deficiencies for CKKO-FM in West Kelowna also affect other Kelowna FM stations. The interveners were concerned that approval of the application would transform CKKO-FM into a regional station serving both Kelowna and Penticton. This could lead to the regionalization of programming at the expense of local service to Kelowna resulting in a negative financial impact on other Kelowna FM stations. The interveners considered that the application was not in the public interest and would compromise

¹ Kelowna is located on the east side of Okanagan Lake, while West Kelowna is located on the lake's west side.

² Pattison is the licensee of CKLZ-FM and CKQQ-FM Kelowna. Bell is the licensee of CHSU-FM, CILK-FM and CKFR Kelowna as well as CJMG-FM and CKOR Penticton. Vista is the licensee of CJUI-FM Kelowna.

the integrity of the Commission's licensing process by introducing a new radio service to Penticton by means of a technical amendment for an existing station.

9. In reply, Newcap noted that Bell and Vista did not intervene in its first application for an identical technical amendment for CKKO-FM. It also noted that Pattison and Vista do not have stations in Penticton and would therefore not be affected economically. Newcap further argued that the impact on Bell, which is licensed in both Kelowna and Penticton, would be minimal. As well, Newcap noted that the interveners acknowledged that there were problems with FM signals in West Kelowna. Newcap stated that CKKO-FM would continue to provide local service to Kelowna, and that there was little overlap between CKKO-FM's classic rock format and the formats offered by Penticton stations. Newcap reiterated that approval of the application would repatriate tuning by Penticton listeners to satellite radio.

Commission's analysis and decisions

10. When a licensee files an application to change its authorized contours, the Commission expects the licensee to present compelling technical or economic evidence that its existing technical parameters are not adequate to provide the service as originally proposed. In light of this expectation, the information provided in the application and the concerns raised by the interveners, the Commission considers that the issues to be addressed are as follows:

- Did the applicant demonstrate a compelling technical need for the proposed amendment?
- Did the applicant propose an appropriate technical solution?
- Did the applicant demonstrate a compelling economic need for the proposed amendment?
- Would approval result in an undue negative financial impact on other radio stations?
- Would approval compromise the integrity of the Commission's licensing process?

Technical need

11. In support of its application, Newcap submitted a field strength measurement study relating to the reception of CKKO-FM. After examining the study, the Commission considers that there are legitimate difficulties with respect to the reception of CKKO-FM in West Kelowna. Accordingly, the Commission is of the view that the applicant has demonstrated a compelling technical need to improve the service that CKKO-FM provides in its licensed area.

Technical solution

12. The technical solution proposed by Newcap is to move CKKO-FM's transmitter site from the side of Okanagan Mountain to co-locate with the site for CIGV-FM Penticton on top of the mountain. The proposed solution would not only result in a better signal in West Kelowna but would extend CKKO-FM's primary service contour so that it encompasses the Penticton market.
13. The Commission is of the view that other technical solutions could resolve the problems associated with serving the Kelowna market without extending the primary service contour to Penticton.
14. Accordingly, the Commission considers that Newcap has not proposed an appropriate technical solution.

Economic need

15. In support of its application, Newcap submitted financial projections for CKKO-FM based on approval of the application. However, no projections were provided for a scenario under which the application is denied. The Commission considers that approval of the application would serve to improve CKKO-FM's financial situation. However, the Commission is not convinced, based on the material submitted, that the amendment is necessary for CKKO-FM to achieve profitability.
16. Accordingly, the Commission finds that Newcap did not demonstrate a compelling economic need for the proposed amendment.

Impact on other stations

17. In Broadcasting Decision 2013-334, the Commission expressed concern that approval of the proposal would place Newcap in a position where it could draw advertising from the Penticton market. The Commission remains of this view. The Commission notes that the combined profit before income and tax of all the commercial radio stations in Penticton has declined over the past three years. The Commission is therefore of the view that approval of Newcap's application could have an undue negative impact on radio stations serving Penticton. This could serve to reduce the quality of service those stations provide to residents of Penticton.

Integrity of the licensing process

18. Given that the primary service contour for CKKO-FM would encompass Penticton if the proposal were approved, the Commission is of the view that approval of the application would be akin to granting Newcap a new service for Penticton without a competitive process.

19. The Commission further notes that the licence for CKKO-FM was granted after a competitive process for a new radio station to serve Kelowna.³ While Newcap stated that CKKO-FM's programming focus would continue to be on Kelowna, the Commission is concerned that approval of the application would bring a strong incentive for CKKO-FM to redirect some of its programming to its new Penticton audience.
20. Accordingly, the Commission is of the view that approval of Newcap's application would compromise the integrity of its licensing process.

Conclusion

21. The Commission considers that Newcap has demonstrated a compelling technical need to improve CKKO-FM's signal. However, the Commission is of the view that Newcap has not proposed an appropriate technical solution or demonstrated a compelling economic need. The Commission is further concerned that approval of the application could have an undue negative impact on Penticton stations and would compromise the integrity of the Commission's licensing process.
22. In light of all of the above, the Commission **denies** the application by Newcap Inc. to change the authorized contours of the English-language commercial radio programming undertaking CKKO-FM Kelowna.

Secretary General

Related documents

- *CKKO-FM Kelowna – Technical changes*, Broadcasting Decision CRTC 2013-334, 12 July 2013
- *CKKO-FM Kelowna – Acquisition of assets*, Broadcasting Decision CRTC 2012-108, 20 February 2012
- *Licensing of new radio stations to serve Kelowna, British Columbia* – Broadcasting Decision CRTC 2008-62, 14 March 2008

³ In Broadcasting Decision 2008-62, the Commission approved an application by Sun Country Cablevision Ltd. for a broadcasting licence to operate a new FM station in Kelowna. In Broadcasting Decision 2012-108, the Commission approved the acquisition of the station by Newcap.