



## Broadcasting Decision CRTC 2007-99

Ottawa, 23 March 2007

**CHUM Limited**  
Peterborough, Ontario

*Application 2006-1095-8*  
*Public Hearing in the National Capital Region*  
*18 December 2006*

### **CKPT Peterborough – Conversion to FM band**

*The Commission **approves** an application by CHUM Limited for a broadcasting licence to operate a new English-language commercial FM radio station in Peterborough to replace its AM station CKPT.*

#### **The application**

1. The Commission received an application by CHUM Limited (CHUM) for a broadcasting licence to operate a new English-language commercial FM radio programming undertaking in Peterborough to replace its AM station CKPT. CHUM is also the licensee of CKQM-FM Peterborough.
2. The applicant proposed to operate the new FM station at 99.3 MHz (channel 257B) with an effective radiated power of 5,700 watts.
3. CHUM submitted that increasing competition in the Peterborough market, the limitations of AM technology and the high cost of upgrading the station are having an adverse impact on CKPT's ability to compete effectively. The conversion of CKPT to the FM band would represent a more effective means of ensuring the station's future viability.
4. The new station would continue to offer the same "soft oldies" musical format currently offered on CKPT. Approximately 10% of each broadcast week would be devoted to spoken word programming.
5. With respect to Canadian talent development (CTD), the applicant indicated that it would contribute \$3,000 in each broadcast year to the Foundation Assisting Canadian Talent on Recordings (FACTOR) and made a commitment to contribute an additional \$10,000 in each broadcast year to the Kawartha Pine Ridge District School Board for the funding of its music program.
6. CHUM's total CTD budget over seven consecutive broadcast years would be \$91,000 upon commencement of operations.

## Interventions

7. The Commission received an intervention in support of this application from King's Kids Promotions Outreach Ministries Incorporated (King's Kids), the licensee of CKKK-FM Peterborough (KAOS Radio), as well as interventions opposing the application from Pineridge Broadcasting Inc. (Pineridge), the licensee of CKSG-FM and CHUC-FM Cobourg, and from many supporters of KAOS Radio. The Commission also received a comment from 591989 B.C. Ltd., a wholly-owned subsidiary of Corus Entertainment Inc. (Corus), the licensee of CKRU and CKWF-FM Peterborough.
8. KAOS Radio is a low-power, unprotected Christian music radio station in Peterborough. CHUM's application for the 99.3 MHz protected Class B frequency is technically mutually exclusive with King's Kids' continued use of the 99.5 MHz low-power frequency in Peterborough. Consequently, approval of the CHUM application would result in King's Kids having to relinquish the 99.5 MHz frequency. Many opposing interveners submitted that KAOS Radio offers a valuable service to the community and is a positive influence on the youth of Peterborough.
9. King's Kids stated that it intended to file an application for a protected frequency within the next few years, but that CHUM's current application had required those plans to be accelerated.<sup>1</sup> King's Kids noted that if the CHUM application is approved, CHUM has agreed to provide King's Kids with technical and marketing support to make the transition to a new frequency possible.
10. Both Pineridge and Corus referred to the highly competitive state of the Peterborough market and noted the presence in that market of CKLY-FM Lindsay, which is also owned by CHUM. Pineridge alleged that the approval of the conversion of CKPT to the FM band would result in CHUM owning three stations in Peterborough.
11. Furthermore, Pineridge considered that CHUM's financial projections underestimated the revenue potential of converting CKPT to FM. Pineridge questioned whether Bell Globemedia, as the potential new owner of CKPT, would adhere to all commitments made by CHUM in the context of the current application. Pineridge also expressed its concern about the proposed station's format, stating that nothing would prevent CHUM from changing the station's format, especially given the pending sale of CHUM to Bell Globemedia.
12. Pineridge expressed concern for the precedent that the approval of CHUM's application would create for Corus, should Corus file an application to convert CKRU to the FM band.

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<sup>1</sup> King's Kids has since submitted an application for a technical amendment to change its frequency. See Broadcasting Public Notice CRTC 2007-30, 23 March 2007.

13. Corus noted that, if this application is approved, its station CKRU would be the only AM station left in the Peterborough market. Corus expressed concern for the viability of CKRU as a stand-alone AM station and was of the view that, if the Commission approves the current application by CHUM, it would only be fair for the Commission to grant the same approval to convert CKRU without issuing a call for other applications.

#### **Applicant's reply**

14. CHUM filed one reply which addressed all of the interventions to this application. In response to all the supporters of KAOS Radio who opposed this application, CHUM pointed out that King's Kids supports CHUM's application and explained the Department of Industry's (the Department's) regulations concerning protected and unprotected frequencies. It also confirmed that it has agreed to help King's Kids with any future application for a new frequency on which to operate KAOS Radio.
15. CHUM noted that it would be premature to comment on any application Corus might file to convert CKRU to the FM band and noted that the Commission assesses individual applications on their merits.
16. In reply to the allegation that approval of this application would result in CHUM owning three FM stations in the Peterborough market, CHUM stated that it has only two stations serving Peterborough and reiterated that CKLY-FM is a Lindsay station.
17. With respect to the accuracy of its financial projections filed with this application, CHUM stated that, given its experience in the radio industry, it is confident that the financial projections accurately reflect how the station would perform if the application were to be approved.
18. Finally, CHUM stated its firm belief that an oldies format would be successful on FM in the Peterborough market and that Bell Globemedia's proposed acquisition of CHUM should have no impact on the Commission's consideration of this application.

#### **Commission's analysis and determinations**

19. In *An FM policy for the nineties*, Public Notice CRTC 1990-111, 17 December 1990, the Commission defined the market of an FM station to be any area within either the 3 mV/m signal contour or the Central Area of the community served by the station as defined by the Bureau of Broadcast Measurement, whichever is smaller. The Commission notes that the 3 mV/m signal contour of the proposed new FM station at Peterborough would not include the City of Kawartha Lakes market and would have minimal reach into the Northumberland market.
20. The Commission notes that, based on the technical parameters, CKLY-FM Lindsay's 3 mV/m contour would not overlap with the proposed new FM station and does not include the Peterborough Central market. Accordingly, approval of CHUM's application would not provide CHUM with a third FM station in the Peterborough market.

21. The Commission is therefore satisfied that CHUM's application for a second FM station to serve Peterborough falls within the Common Ownership Policy guidelines set out in *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998, which provides that, in markets the size of Peterborough, a licensee may own or control as many as three radio stations in a given language, with a maximum of two radio stations in any one frequency band.
22. With respect to the concerns raised concerning a possible future request by Corus to convert CKRU Peterborough to the FM band, the Commission notes that such an application would be assessed on its own merit at that time and would be subject to a public process.
23. The Commission notes the interveners' concerns regarding the proposed new FM station's revenue projections and its format, as well as concerns expressed by supporters of KAOS Radio regarding the impact a conversion would have on KAOS Radio. The Commission is satisfied with the applicant's response to these issues.
24. In light of the above, the Commission **approves** the application by CHUM Limited for a broadcasting licence to operate a new English-language commercial FM radio programming undertaking in Peterborough to replace its AM station CKPT. The new station will operate at 99.3 MHz (channel 257B) with an effective radiated power of 5,700 watts.
25. The Commission notes the applicant's commitment to contribute \$3,000 annually to FACTOR to satisfy its CTD requirements, as well as an additional \$10,000 annual commitment to be directed to the Kawartha Pine Ridge District School Board for funding of a music program. A **condition of licence** to that effect is set out in the appendix to this decision.
26. The Commission notes that in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (Public Notice 2006-158), it set out a new approach to the development and promotion of Canadian artists, which is expected to be implemented on 1 September 2007. In order to reflect a new emphasis on development initiatives that lead to the creation of audio content for broadcast using Canadian resources, the Commission will replace the expression "Canadian talent development" with "Canadian content development"(CCD). Each radio station holding a commercial radio licence will be required to make a basic annual CCD contribution based on its revenues in the previous broadcast year.
27. The Commission notes that this applicant has made commitments for CTD that will be imposed as conditions of licence. Amounts required under these conditions may be deducted from the amounts that will be required under the new basic CCD contribution.

28. The Commission reminds the applicant that all development initiatives that have not been allocated to specific parties by condition of licence should be allocated to the support, promotion, training and development of Canadian musical and spoken word talent, including journalists. Parties and initiatives eligible for CCD funding are identified in paragraph 108 of Public Notice 2006-158.
29. The licensee is authorized, by **condition of licence**, to simulcast the programming of the new FM station on CKPT for a transition period of three months following the commencement of operations of the FM station. Pursuant to sections 9(1)(e) and 24(1) of the *Broadcasting Act* (the Act), and consistent with the licensee's request, the Commission **revokes** the licence for CKPT effective at the end of the simulcast period.
30. The Commission notes that, as indicated above, the use of 99.3 MHz by CHUM approved in this decision is technically mutually exclusive with the use of the low-power frequency 99.5 MHz by King's Kids in Peterborough.
31. Pursuant to the Department's *Broadcasting Procedures and Rules*, the operation of low-power undertakings, such as KAOS Radio, are authorized on an unprotected basis. If necessary, the licensee of such an undertaking must select another frequency to permit optimum use of the frequency spectrum. The Commission notes CHUM's stated commitment to aid King's Kids in making a transition to a new frequency.
32. The licence 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, with the exception of condition of licence no. 5, as well as to the **conditions** set out in the appendix to this decision.

### **Issuance of the licence**

33. 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.
34. The Commission reminds the applicant that, pursuant to section 22(1) of the 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.
35. Furthermore, the licence for this undertaking will only 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 23 March 2009. 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.

## **Employment equity**

36. Because this applicant 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 2007-99

### Conditions of licence

1. The licence is subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition of licence no. 5.
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*, in any broadcast week where at least 90% of musical selections from content category 2 that it broadcasts are selections released before 1 January 1981:
  - in that broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety; and
  - between 6 a.m. and 6 p.m., in the period beginning on Monday of that week and ending on Friday of the same broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

The licensee will also be responsible for specifying, on the music lists it provides to the Commission, the year of release for all musical selections it broadcasts.

For the purposes of this condition, the terms “broadcast week,” “content category” and “musical selection” shall have the meaning set out in section 2 of the *Radio Regulations, 1986*.

3. The licensee shall, upon commencement of operations, make direct annual contributions of at least \$3,000 to the Foundation Assisting Canadian Talent on Recordings (FACTOR) and \$10,000 to the Kawartha Pine Ridge District School Board for the funding of its music program.