



Broadcasting Decision CRTC 2009-746

Route reference: 2009-461

Additional references: 2009-461-2, 2009-461-3 and 2009-461-4

Ottawa, 2 December 2009

Northwoods Broadcasting Limited Thunder Bay, Ontario

Application 2009-0780-1, received 21 May 2009
Public hearing in the National Capital Region
29 October 2009

CKTG-FM and CJUK-FM Thunder Bay – Acquisition of assets

*The Commission **approves** an application by Northwoods Broadcasting Limited for authority to acquire from Newcap Inc. the assets of the English-language radio stations CKTG-FM and CJUK-FM Thunder Bay and for new broadcasting licences to continue the operation of the undertakings.*

Introduction

1. The Commission received an application by Northwoods Broadcasting Limited (Northwoods) for authority to acquire from Newcap Inc. (Newcap) the assets of the English-language radio programming undertakings CKTG-FM and CJUK-FM Thunder Bay and for new broadcasting licences to continue the operation of the undertakings under the same terms and conditions as those in effect under the current licences. The Commission did not receive any interventions in connection with this application.
2. Northwoods is a wholly owned subsidiary of Acadia Broadcasting Limited, a corporation wholly owned and controlled by Ocean Capital Investments NB Limited, which in turn is wholly owned and controlled by its sole shareholder and President/CEO, Mr. John Ernest Irving.

Commission's analysis and determinations

3. After examining the application in light of applicable regulations and policies, the Commission considers that the issues to be addressed in its determinations are the following:
 - the sale of CJUK-FM shortly after a previous change in control;
 - the assessment of the value of the transaction;
 - the assessment of the proposed tangible benefits; and

- the contributions to Canadian content development.

Sale of CJUK-FM shortly after a previous change in control

4. The proposed transaction involves the acquisition of the assets of two stations: CKTG-FM and CJUK-FM Thunder Bay. In Broadcasting Decision 2005-192, the Commission approved an application by Newcap for authority to acquire from Big Pond Communications 2000 Inc. (Big Pond) the assets of CJUK-FM. Consequently, the acquisition of CJUK-FM will occur shortly after a previous change in control.
5. When examining such transactions, the Commission is concerned with the following two areas:
 - the integrity of the licensing process; and
 - the potential gain to the vendor.

Integrity of the licensing process

6. In Broadcasting Decision 2005-192, the Commission approved an application by Newcap to acquire the assets of the radio station CJUK-FM Thunder Bay based on the following factors:
 - CJUK-FM was originally licensed in 2000 (Decision 2000-740), as a low-power English-language commercial FM radio station to serve Thunder Bay. Since it was still in its first licence term in 2005, the Commission was concerned about potential licence trafficking issues including the extent of the financial gain associated with the proposed transaction.
 - After having examined the proposal which included Big Pond's rationale for the sale of the station, the Commission found that in the circumstances it was unreasonable to infer that the primary motivation of Big Pond's owner in selling CJUK-FM was to make a significant financial gain. Furthermore, the Commission concluded that any financial gain that would accrue to Big Pond as a result of the transaction would not be unreasonable.
 - Lastly, the Commission noted that approval of the application would result in the maintenance of the operation of CJUK-FM, which would continue to serve local communities and would also allow for tangible benefits to be directed to broadcasting initiatives.
7. In the present application, Newcap explained that despite concerted efforts to run the station successfully, the location of the station, isolated from Newcap's other stations, has made its operation more complicated. Newcap also indicated that finding a qualified, motivated and stable general manager has been difficult and that it has employed four general managers in the span of three years.
8. Northwoods indicated that it is very motivated to own and operate these stations. It argued that the transaction is in the public interest as it clearly sees how these stations fit with its cluster of stations in Kenora, Dryden, Fort Frances, Red Lake and Sioux Lookout. Moreover, Northwoods highlighted that the addition of Thunder Bay to its Northern Ontario group would create administrative and programming synergies among its services, notably, by allowing them to share news and information relevant to these communities.

9. Northwoods stated that CKTG-FM and CJUK-FM would remain autonomous, full-service radio stations, dedicated to serving Thunder Bay on a daily basis. Production, sales, traffic and day-to-day administration would all reside in Thunder Bay. Northwoods further indicated that there would be some cross-station support for commercial production, the sharing of skills, voice talent within commercials and promotional announcements and that it would promote a free flow of ideas and concepts between the stations, which would allow each station to use new and refreshing ideas and improved processes.
10. Northwoods also indicated that Newcap has kept all of its commitments to the Commission and has provided a high-quality product to the listeners of Thunder Bay.
11. The Commission notes that the sale of CJUK-FM is also part of an application involving CKTG-FM, a station that is not in its first licence term and that has not undergone a recent change in control. CKTG-FM is a well-established station that was purchased by Newcap in 1988 (Decision 88-295) and the sale of CJUK-FM must be examined in this context.
12. In light of the above, the Commission is satisfied that the integrity of the licensing process is not compromised by the approval of the proposed transaction.

Potential gain to the vendor

13. Where an undertaking is sold shortly after a previous change in control, the Commission examines the investment that the vendor has made in the undertaking for the purpose of determining the profit resulting from the sale. Newcap indicated that it had invested significant time and effort to make CJUK-FM a profitable station, but without success, and that its location has been an obstacle since most of Newcap's radio undertakings are located at a considerable distance from Thunder Bay.
14. Newcap further indicated that the rationale for selling these assets is a straightforward business case. Newcap is a publicly traded company and has the objective of increasing the shareholder's value. Since the purchase of CJUK-FM in 2005, it has recorded net losses of over \$550,000 despite its efforts.
15. In light of the above and based on financial evidence provided by the applicant, the Commission is satisfied that Newcap does not stand to realize an unreasonable financial gain from the sale of the undertaking.

Value of the transaction

16. The value of the transaction, based on the terms of the Asset Purchase Agreement (the Agreement), is \$4,500,000. Also, the Agreement provides for the purchase price to be adjusted to the full value of the net working capital. Northwoods estimated that value to be \$370,420 and the Commission is of the view that this amount is acceptable. Furthermore, it is the Commission's practice to include in the value of the transaction the value of commitments related to operating leases which in this case amounts to \$456,491. Therefore, the revised value of the transaction amounts to \$5,326,911 (\$4,500,000 + \$370,420 + \$456,491).

Tangible benefits

17. Pursuant to Broadcasting Public Notice 2006-158 (the Commercial Radio Policy), Northwoods proposed a tangible benefits package representing 6% of the proposed \$4.5 million value of the transaction (\$270,000). Northwoods proposed to allocate the following amounts over seven broadcast years:
 - 3% (\$135,000) to Radio Starmaker Fund;
 - 2% (\$90,000) to FACTOR; and
 - 1% (\$45,000) to an eligible Canadian content development (CCD) initiative as outlined in paragraph 108 of the Commercial Radio Policy.
18. The Commission notes that Northwoods committed to contribute its remaining 1% (\$45,000) to the artistic community in Thunder Bay.
19. Considering the revised value of the transaction, the value of the proposed tangible benefits package will increase from the proposed \$270,000 to \$319,615 (i.e. 6% of the revised amount of \$5,326,911). Given the revised tangible benefits package, the Commission directs Northwoods to allocate the revised amount as follows:
 - \$159,807 to the Radio Starmaker Fund;
 - \$106,538 to FACTOR; and
 - \$53,270 to an eligible CCD initiative as outlined in paragraph 108 of the Commercial Radio Policy.

Canadian content development

20. The Commission reminds the applicant that it must adhere to the requirements relating to contributions to CCD set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time. Northwoods indicated that 100% of the basic annual contribution for both CKTG-FM and CJUK-FM will be directed to FACTOR.

Conclusion

21. In light of the above, the Commission **approves** the application by Northwoods Broadcasting Limited for authority to acquire from Newcap Inc. the assets of the English-language radio programming undertakings CKTG-FM and CJUK-FM Thunder Bay and for broadcasting licences to continue the operation of the undertakings.

22. Upon surrender of the current licences issued to Newcap Inc., the Commission will issue new licences to Northwoods Broadcasting Limited. The licence for CKTG-FM will expire 31 August 2011 and the licence for CJUK-FM will expire 31 August 2014, the expiry dates of the current licences, and will be subject to the terms and conditions set out in the appendices to this decision.

Secretary General

Related documents

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CJUK-FM Thunder Bay – Acquisition of assets*, Broadcasting Decision CRTC 2005-192, 10 May 2005
- *New FM radio station*, Decision CRTC 2000-740, 29 November 2000
- *Leader Broadcasting Corporation Limited, Change of effective control (CJLB Thunder Bay)*, Decision CRTC 88-295, 22 April 1988

This decision is to be appended to each 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 1 to Broadcasting Decision 2009-746

Terms and condition of licence for CKTG-FM Thunder Bay

Terms

The licence will expire 31 August 2011.

Condition 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.

Appendix 2 to Broadcasting Decision 2009-746

Terms and condition of licence for CJUK-FM Thunder Bay

Terms

The licence will expire 31 August 2014.

Condition 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.