

Date: April 9th, 2014

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
NOVA SCOTIA AND ONTARIO
(the Jurisdictions)**

AND

**IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS**

AND

**IN THE MATTER OF
NEWFOUNDLAND CAPITAL CORPORATION LIMITED
(the Filer)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions ("Decision Maker") has received an application from the Filer for a decision under the securities legislation of each of the Jurisdictions (the "Legislation") to grant an exemption to the Filer from the requirement to include certain financial statements under section 8.4 of National Instrument 51-102 – Continuous Disclosure Obligations ("NI 51-102") in the business acquisition report ("BAR") of the Filer related to the Acquisition of the Acquired Assets, as those terms are defined herein.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (i) the Nova Scotia Securities Commission is the principal regulator for this application;
- (ii) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 – Passport System (MI 11-102) is intended to be relied upon in British Columbia, Alberta, Manitoba, Saskatchewan, Quebec, New Brunswick, Prince Edward Island and Newfoundland and Labrador; and
- (iii) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in National Instrument 14-101 – Definitions and MI 11-102 have the same meaning as is used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is a corporation amalgamated under the Canada Business Corporations Act, with its head office located in Dartmouth, Nova Scotia.
2. The Filer is a reporting issuer in each of the provinces of Canada and is not in default of securities legislation in any jurisdiction.
3. The Filer's Class A Subordinate Voting Shares and Class B Multiple Voting Shares are listed for trading on the Toronto Stock Exchange under the symbols "NCC.A" and "NCC.B", respectively.
4. The Filer is predominantly involved in radio broadcasting through its wholly owned subsidiary Newcap Inc. ("Newcap") which holds 95 radio licenses across Canada, including the Acquired Assets.
5. The Filer's fiscal year end falls on December 31 in each year.
6. On August 26, 2013, Newcap entered into a definitive agreement with Bell Media Inc. ("Bell Media") to acquire from Bell Media the radio broadcasting licenses CHBM-FM ("Boom 97.3") and CFXJ-FM ("93.5 The Flow") in Toronto, Ontario and CKZZ-FM ("Virgin Radio 95.3"), CHHR-FM ("Shore 104.3 FM"), and CISL-AM ("AM 650") in Vancouver, British Columbia (collectively, the "Acquired Assets"), for a price of \$112 million plus the assumption of certain liabilities (the "Acquisition"). The Acquisition was subject to approval from the Canadian Radio-television and Telecommunications Commission ("CRTC").
7. 93.5 The Flow (the "Bell Station") has been owned and operated by Bell Media since prior to July 5, 2013 (the "Astral Acquisition Date").
8. On the Astral Acquisition Date, Bell Media acquired a number of assets from Astral Media Inc. ("Astral Media"), including Boom 97.3, Virgin Radio 95.3, Shore 104.3 FM, and AM 650 (collectively, the "Former Astral Stations").
9. As a CRTC condition of the acquisition by Bell Media of the Former Astral Stations, the Acquired Assets were placed in trust on the Astral Acquisition Date pending their divesture to third parties.
10. Upon the Astral Acquisition Date, the voting control of the Acquired Assets was transferred from Bell Media to Pierre Boivin, the trustee, and such control remained with the trustee until the completion of the Acquisition on March 31, 2014.
11. The Acquisition was announced by press release of the Filer dated August 26, 2013 and closed on March 31, 2014.

12. Prior to their acquisition by Bell Media, the business year end for the Former Astral Stations was August 31. A year end was triggered for the Former Astral Stations on the Astral Acquisition Date. Prior to the Astral Acquisition Date, the business year end for 93.5 The Flow was December 31. In connection with the Acquisition, Bell Media has changed the year end of the Acquired Assets to March 30, 2014, being the day immediately prior to the closing date of the Acquisition (the "Revised Year End").
13. The Acquisition is a "significant acquisition" for the Filer within the meaning of section 8.3 of NI 51-102. In particular, Acquired Assets are approximately 72 percent of the consolidated assets of the Filer, the investment in or advances by the Filer in the business acquired in the Acquisition is approximately 52% of the consolidated assets of the Filer prior to such investment or advances, and the earnings before interest, taxes, depreciation and amortization ("EBITDA") from the Acquired Assets is approximately 55% of the EBITDA of the Filer. Accordingly, the Filer is required to file a BAR in accordance with section 8.2 of NI 51-102.
14. The Filer is unable to prepare the required financial statements for the Acquired Assets in accordance with Section 8.4 of NI 51-102 for the period prior to the Astral Acquisition Date for the following reasons:
 - i. the Acquired Assets were not accounted for as a separate division or legal entity of either Bell Media or Astral Media;
 - ii. the Acquired Assets did not represent material assets of either Astral Media or Bell Media;
 - iii. the key operating assets and liabilities of the Acquired Assets were integrated with the overall Bell Media and Astral Media businesses;
 - iv. stand-alone financial statements of the Acquired Assets have never been prepared, except for operational income statements reflecting primarily the direct revenues and expenses of the stations;
 - v. historically, the assets and liabilities of the Acquired Assets have generally been aggregated with the overall assets and liabilities of Astral Media or Bell Media, as applicable, and separate cash balances were not maintained for the Acquired Assets;
 - vi. the equity and other capital balance items were not maintained for the Acquired Assets and such items were aggregated at the Bell Media and Astral Media level;
 - vii. since the Acquired Assets were integrated in the overall business and structure of each of Bell Media and Astral Media, the Acquired Assets were largely dependent on each of Bell Media's and Astral Media's administrative support functions (such as accounting, treasury, tax, legal, risk management, IT, marketing, procurement, and human resources);
 - viii. the assumptions required for the Filer to produce the financial statements would by necessity be arbitrary and speculative and undermine the reliability of those statements; and
 - ix. any attempts to construct cash flow statements for the Acquired Assets would entail numerous assumptions with respect to opening cash balances and sources and uses

of cash for financing and operational purposes that are unlikely to be indicative of what the Acquired Assets would have experienced as a stand-alone company.

15. The Filer proposes to provide the following alternative financial information (the "Alternative Financial Information") with respect to the Acquired Assets:

- i. financial information for the Acquired Assets as follows:
 - a. on a combined basis including the Former Astral Stations and Bell Station, audited combined financial statements for the period beginning on the Astral Acquisition Date and ending on the Revised Year End, with unaudited combined comparative balance sheet as of the Astral Acquisition Date and no other comparative statements;
 - b. for the Bell Station, an unaudited statement of operations for the 369 days ended the day prior to the Astral Acquisition Date; and
 - c. for the Former Astral Stations on a combined basis, an unaudited statement of operations for the 369 days ended the day prior to the Astral Acquisition Date;

provided that the statements of operations referred to in subparagraphs (b) and (c) above would include revenue less direct and common market costs and will include all expenses other than indirect operating costs not directly attributable to the business; and

- ii. unaudited pro-forma balance sheet and income statement of the Filer for the fiscal year ended December 31, 2013, giving effect to the Acquisition, which will include a constructed statement of operations only for the Acquired Assets detailing revenues and expenses attributable to the Acquired Assets, together with any unaudited pro-forma combined balance sheet and income statement of the Filer for the interim period for which financial statements have been filed.

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the relevant regulator or securities regulatory authority to make the decision.

The decision of the Decision Maker under the Legislation is that the Exemption sought is granted, provided that the Alternative Financial Information is included by the Filer in its BAR.



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