



Broadcasting Decision CRTC 2006-666

Ottawa, 8 December 2006

912038 Alberta Ltd.

Lloydminster and Bonnyville, Alberta

Application 2005-1369-9

Broadcasting Public Notice CRTC 2006-93

26 July 2006

CKLM-FM Lloydminster and its transmitter CKLM-FM-1 Bonnyville – Licence renewal

The Commission renews the broadcasting licence for CKLM-FM Lloydminster and its transmitter CKLM-FM-1 Bonnyville, from 1 January 2007 to 31 August 2013. Details on the licensee's proposals for the new licence term and other requirements imposed by the Commission are addressed below.

The application

1. The Commission received an application by 912038 Alberta Ltd. (912038) to renew the broadcasting licence for the commercial radio programming undertaking CKLM-FM Lloydminster and its transmitter CKLM-FM-1 Bonnyville, which expires 31 December 2006.¹
2. As part of its application, the licensee proposed to reduce its annual Canadian talent development (CTD) contributions from the \$29,200 committed to by Peace River Broadcasting Corporation Ltd. (Peace River)² in *New pop/rock FM radio station in Lloydminster*, Decision CRTC 2000-93, 11 April 2000 (Decision 2000-93), to an annual minimum of \$400, as required under the CTD plan developed by the Canadian Association of Broadcasters (CAB) for licensees serving markets the size of Lloydminster.
3. The licensee indicated that it has spent \$146,000 on CTD, as committed to by Peace River in Decision 2000-93. 912038 expressed concern with the increase and introduction of tariff payments that it is required to pay to the Society of Composers, Authors and Music Publishers of Canada (SOCAN), the Canadian Musical Reproduction Rights Agency Limited (CMRRA) and Neighbouring Rights Collective of Canada (NRCC). The licensee proposed that its CTD budget for the new licence term would be based on an

¹ The broadcasting licence for CKLM-FM Lloydminster and its transmitter CKLM-FM-1 Bonnyville was renewed administratively in *Administrative renewals*, Broadcasting Decision CRTC 2006-396, 23 August 2006, from 1 September 2006 to 31 December 2006.

² In *Corporate Reorganization*, Decision CRTC 2001-499, the Commission approved an application by 912038 Alberta Ltd. for authority to acquire the assets of CKLM-FM from Peace River.

annual \$400 payment to the Foundation Assisting Canadian Talent on Recordings (FACTOR) for CKLM-FM and an \$800 annual payment to FACTOR for CKLM-FM-1 Bonnyville.³

4. In its renewal application, 912038 also proposed to reduce its weekly percentage of Canadian musical selections drawn from category 2 (Popular music) from 40% to 35%.
5. The licensee indicated that its request to reduce its category 2 Canadian music is due to a number of factors. It expressed the opinion that the station operates at a competitive disadvantage, since CKLM-FM is the only station in the market with a Canadian content level higher than the 35% required under the *Radio Regulations, 1986* (the Regulations). 912038 also indicated that, while CKLM-FM promotes new talent, because of its rock music format it inevitably has to use established Canadian talent to meet the 40% level.

Intervention

6. The Commission received one intervention in opposition to the proposed amendments to CKLM-FM's licence, from the Canadian Independent Record Production Association (CIRPA).
7. With respect to 912038's proposal to reduce its CTD spending for the new licence term, CIRPA was of the view that music tariffs are a cost of doing business, and have no bearing on CTD commitments.
8. CIRPA was of the view that the higher Canadian content level required of CKLM-FM was an important factor in the awarding of the original licence for the station, and that there is ample popular Canadian music available to enable stations to meet a 40% Canadian content level.

Licensee's reply

9. In response to CIRPA's intervention, 912038 reiterated its rationale for its requests to reduce its annual CTD budget and to reduce the Canadian content on CKLM-FM.
10. The licensee indicated that with respect to CTD expenditures, its business plan was based on the music tariffs as they existed in 1999, and that these tariffs have substantially increased since that time. 912038 also indicated that decreasing its Canadian content level would allow it to operate under the same circumstances as its competitors.

³ An application by 912038 Alberta Ltd. to convert the Bonnyville transmitter to an originating station was approved, in *English-language FM radio station in Bonnyville*, Broadcasting Decision CRTC 2006-632, 20 November 2006.

Commission's analysis and determinations

Canadian talent development

11. With respect to the issue of music tariffs discussed by the licensee and by CIRPA, the Commission notes that such payments are distinct and separate from CTD budget expenditures and appropriately considered to be a normal business cost.
12. In Decision 2000-93, the Commission accepted a CTD plan for CKLM-FM's first term of licence which projected annual expenditures of \$29,200. This plan has resulted in a total expenditure of \$146,000 over CKLM-FM's first licence term, and the Commission notes therefore that the licensee has fully complied with the original condition of CKLM-FM's licence with respect to CTD.

Reduction of Canadian content

13. As noted above, the Commission originally authorized the operation of CKLM-FM in Decision 2000-93. In that decision, Peace River proposed that in each broadcast week, 40% or more of all musical selections drawn from category 2 would be Canadian selections. The 40% level was in excess of the 35% level required under section 2.2(8) of the Regulations, and was a significant factor in the granting of the original licence.
14. The Commission notes that, while the licensee argued that its 40% Canadian content level places it at a competitive disadvantage in Lloydminster, its financial performance reflects a positive profit before interest and tax (PBIT) margin, and its BBM ratings show that CKLM-FM is consistently the most popular radio station in Lloydminster.

Conclusion

Canadian talent development

15. In *Contributions by radio stations to Canadian talent development – A new approach*, Public Notice CRTC 1995-196, 17 November 1995, the Commission stated that contributions made by radio stations to CTD are important in fostering the careers of new Canadian artists. The Commission remains convinced of the importance of CTD contributions in this regard.
16. In the present case, the Commission acknowledges that the commitments agreed to by Peace River and continued by 912038 were for the station's first licence term, and that the licensee has complied with its condition of licence in this regard.
17. As part of this licence renewal application, 912038 requested that it be permitted to reduce its CTD commitments to the yearly minimum \$400 contribution required for the Lloydminster radio market under the CAB CTD plan. The Commission notes that 912038 would direct its contribution to FACTOR, an eligible third party organization. Accordingly, the Commission **approves** 912038 Alberta Ltd.'s request for a reduction in its required expenditures on CTD to a minimum of \$400 per year.

Canadian content

18. The Commission reiterates that the commitment to broadcast 40% Canadian content was an important factor in the awarding of the original licence for CKLM-FM. It further notes that the licensee has recently proposed the establishment of a new FM station in Bonnyville to replace CKLM-FM-1. In that application, 912038 proposed a level of 40% Canadian content, in a similar rock music format to that employed by CKLM-FM.
19. With respect to 912038's request to reduce the level of category 2 Canadian music broadcast on CKLM-FM from 40% to 35%, the Commission is of the view that the licensee has not provided any evidence that the 40% Canadian content level has placed CKLM-FM at a competitive disadvantage, not has it provided any evidence that there is a limited source of appropriate Canadian musical selections.
20. Accordingly, the Commission **denies** 912038 Alberta Ltd.'s request to reduce its weekly percentage of Canadian musical selections drawn from category 2 from 40% to 35%.
21. Based on its review of this licence renewal application the Commission **renews** the broadcasting licence for the commercial radio programming undertaking CKLM-FM Lloydminster and its transmitter CKLM-FM-1 Bonnyville, from 1 January 2007 to 31 August 2013. The licence will be subject to the **conditions** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, as well as to the following **condition**:

The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) of the *Radio Regulations, 1986*, in any broadcast week, devote, in that broadcast week, a minimum of 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 *Radio Regulations, 1986*.

Employment equity

22. 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.

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>