



Broadcasting Decision CRTC 2012-657

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Ottawa, 30 November 2012

Northern Native Broadcasting (Terrace, B.C.)

Terrace and Prince Rupert, British Columbia

Application 2012-0090-7

CFNR-FM Terrace – New transmitter in Prince Rupert

*The Commission **denies** an application to amend the broadcasting licence for CFNR-FM Terrace in order to operate an FM transmitter in Prince Rupert.*

Introduction

1. The Commission received an application by Northern Native Broadcasting (Terrace, B.C.) (Northern Native) to amend the broadcasting licence for the English and Aboriginal-language Type B Native radio programming undertaking CFNR-FM Terrace in order to operate an FM transmitter in Prince Rupert, British Columbia.
2. The new transmitter would operate at 105.5 MHz (channel 288A) with an average effective radiated power of 2,100 watts (non-directional antenna with an effective height of antenna above average terrain of 101.8 metres).
3. The Commission notes that Northern Native may have failed to comply with section 9(2) of the *Radio Regulations, 1986* (the Regulations) relating to the filing of annual returns.
4. The Commission received interventions in opposition to this application from Jim Pattison Broadcast Group Limited Partnership and Vista Radio Ltd., to which the licensee did not reply. These interventions related to extending CFNR-FM's "distant signal" into the Prince George radio market via the proposed transmitter, and to the station's apparent "commercial programming orientation." The interventions can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and decision

5. After examining the public record for this application in light of applicable policies and regulations, the Commission considers that the issue it must address relates to the licensee's apparent non-compliance with section 9(2) of the Regulations.
6. In a letter to the licensee dated 26 July 2012, Commission staff indicated that it had appeared that Northern Native had failed to file with the Commission its annual

returns for the 2007-2008 through 2010-2011 broadcast years. The Commission notes that letters dated 22 January 2010, 28 September 2010 and 29 April 2011 were sent to the licensee to remind it of its regulatory obligations in this regard, as well as to inform it of its apparent non-compliance.

7. In its reply, the licensee stated that it had experienced several technical impediments with the online reporting tools. It also noted a lack of staff and high staff turnover, especially at a time when the station was facing great financial challenges (i.e., the 2005-2006 broadcast year). The licensee also indicated that its annual returns were for the period of the station's fiscal year (i.e., 1 April to 31 March).
8. In order to ensure future compliance, Northern Native indicated that CFNR-FM's station manager and accounting managers would share duties in order to complete the station's annual returns by 1 October following the end of each broadcast year. It also noted that standard user-friendly working spreadsheets have been developed to ease on the reporting. Finally, the licensee stated that proper staffing was put into place in 2009 and that the station is catching up on all of its regulatory requirements. In this regard, it noted that the annual returns covering the 2007-2008 through 2010-2011 broadcast years were filed in July 2012.
9. In Broadcasting Information Bulletin 2011-795, the Commission set out the responsibilities of licensees relating to the compilation and filing of annual returns, as well as the requirement that annual returns cover the period corresponding to the broadcast year (i.e., 1 September to 31 August).
10. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach for dealing with non-compliance by radio stations. In that information bulletin, it noted that compliance with requirements governing the filing of annual returns, among other things, would be reviewed when it considers applications for licence amendments.
11. The Commission further noted that when considering applications for licence amendments, it would no longer automatically deny the amendment, but would take into account the quantity, the recurrence and the seriousness of the non-compliance, as well as the relationship between the application for amendment and any instance of non-compliance. In regard to the present case, the Commission considers that due to the seriousness of the non-compliance, and due to the licensee's repeated non-compliance, approval of the proposed licence amendment would not be appropriate. The Commission advises Northern Native that the non-compliance will be considered at the time of the renewal of the broadcasting licence for CFNR-FM, which expires 31 August 2015.

Conclusion

12. In light of the above, the Commission **denies** the application by Northern Native Broadcasting (Terrace, B.C.) to amend the broadcasting licence for the English- and

Aboriginal-language Type B Native radio programming undertaking CFNR-FM Terrace in order to operate an FM transmitter in Prince Rupert, British Columbia.

Secretary General

Related documents

- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011