



Broadcasting Decision CRTC 2014-83

PDF version

Route reference: 2013-536

Ottawa, 26 February 2014

Nakusp Community Radio Society
Nakusp, British Columbia

Application 2013-1180-3, received 19 August 2013
Public hearing in the National Capital Region
5 December 2013

CJHQ-FM Nakusp – Acquisition of assets

*The Commission **approves** an application by Nakusp Community Radio Society for authority to acquire from Nakusp Roots Music Society the assets of the English-language community radio station CJHQ-FM Nakusp, and for a new broadcasting licence to continue the operation of the undertaking.*

Introduction

1. Nakusp Community Radio Society (Nakusp Community) filed an application for authority to acquire from Nakusp Roots Music Society (Nakusp Roots) the assets of the English-language community radio station CJHQ-FM Nakusp. Nakusp Community also requested the issuance of a new broadcasting licence to continue the operation of the station under the same terms and conditions as those in effect under the current licence.
2. On 23 November 2011, Nakusp Roots and Nakusp Community entered into a Bill of Sale of Equipment for transferring the assets of CJHQ-FM to Nakusp Community. However, neither Nakusp Community nor Nakusp Roots requested prior Commission approval for authority to acquire the assets and change the effective control of the station. Further, neither party informed the Commission of the change at the time.
3. Nakusp Community is a not-for-profit corporation controlled by its board of directors. Prior to its dissolution, Nakusp Roots was also a not-for-profit corporation controlled by its board of directors.
4. Upon approval of the transaction by the Commission, Nakusp Community would become the licensee of CJHQ-FM.

Interventions

5. The Commission received an intervention in support of the application from the National Campus and Community Radio Association (NCRA), as well as an intervention offering general comments from the Province of British Columbia relating to the participation of CJHQ-FM in its jurisdiction in the National Public Alerting System (NPAS). Nakusp Community did not reply to the interventions. The public record for this application is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
6. As specified in its three-year plan, the Commission will be looking at measures to ensure the participation of Canadian broadcasters and telecommunications service providers in the NPAS. Therefore, the Commission will not impose conditions of licence requiring the participation of broadcasters in the NPAS at this time. However, the Commission expects all licensees to voluntarily participate in the NPAS, so that Canadians receive timely warnings of imminent perils.

Non-compliance

7. In Broadcasting Notice of Consultation 2013-536, the Commission noted that the transaction was effected prior to the Commission's approval, which is required pursuant to section 11(4)(a) of the *Radio Regulations, 1986* (the Regulations). It further noted that the licensee was in apparent non-compliance with section 9(2) of the Regulations, which relates to the filing of annual returns, for the 2007-2008 through 2009-2010 broadcast years.

Prior Commission approval of the transaction

8. Section 11(4)(a) of the Regulations sets out the following:

Except as otherwise provided pursuant to a condition of its licence, a licensee shall obtain the prior approval of the Commission in respect of any act, agreement or transaction that directly or indirectly would result in (a) a change by whatever means of the effective control of its undertaking [...].

9. As noted above, the transaction was carried out in 2011 without prior Commission approval. Consequently, the Commission finds the licensee in non-compliance with section 11(4)(a) of the Regulations.

Filing of annual returns

10. As set out in section 9(2) of the Regulations, on or before 30 November of each year, licensees are required to file their annual returns for the broadcast year ending the previous 31 August. The Commission notes that for the 2007-2008 broadcast year, the annual return for CJHQ-FM was filed late. Further, the station's annual return for 2008-2009 was incomplete, as it did not include financial statements, and the annual return forms for 2009-2010 were not filed (only the financial statements were

submitted). Nakusp Community stated that it could not explain the circumstances surrounding the late and incomplete filing of annual returns as it was not involved with Nakusp Roots at that time. It further stated that due to the dissolution of Nakusp Roots, it does not have access to the missing information. However, Nakusp Community noted that, going forward, its President will assume full responsibility for future filings in order to ensure compliance.

11. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations.

Commission's analysis and decisions

12. The Commission notes that the acquisition of assets and change in effective control has already occurred and that approval of the transaction would allow the station to come into compliance with its ownership requirements.
13. In regard to the issues relating to the filing of annual returns, timely compliance with annual reporting requirements is important because it allows the Commission to monitor licensee performance and compliance with its regulations and obligations. The Commission therefore considers annual returns that are incomplete and/or filed late to be a serious matter.
14. The Commission notes that CJHQ-FM's compliance with its regulatory requirements has improved since 2010 and that Nakusp Community has taken measures to ensure future compliance with those requirements.
15. The Commission encourages Nakusp Community to consult with the NCRA to implement best practices for ensuring compliance with its regulatory obligations.
16. In light of all the above, the Commission **approves** the application by Nakusp Community Radio Society for authority to acquire from Nakusp Roots Music Society the assets of the English-language community radio programming undertaking CJHQ-FM Nakusp, and for a new broadcasting licence to continue the operation of the undertaking.
17. Upon surrender of the current licence issued to Nakusp Roots Music Society, the Commission will issue a new broadcasting licence to Nakusp Community Radio Society, which will expire 31 August 2015. The licensee shall adhere to the standard **conditions of licence** for campus and community radio stations set out in Broadcasting Regulatory Policy 2012-304.
18. The Commission will review CJHQ-FM's performance at the time of its next licence renewal. The Commission reminds Nakusp Community that it must remain in compliance at all times with the Regulations, and that it must seek prior approval for any future act, agreement or transaction that directly or indirectly would result in the change of control of CJHQ-FM.

Filing of ownership information

19. As set out in Broadcasting Regulatory Policy 2010-499, the Commission expects all licensees of community and campus radio stations to file yearly updates on the composition of their boards of directors. These annual updates can be submitted at the time of submission of annual returns, following annual board of directors' elections, or at any other time. As noted in Appendix 3 to that regulatory policy, licensees may submit such documentation via the Commission's website.

Employment equity

20. The Commission considers that community radio stations should be particularly sensitive to employment equity issues in order to reflect fully the communities they serve. It encourages the licensee to consider these issues in its hiring practices and in all other aspects of its management of human resources.

Secretary General

Related documents

- *Notice of hearing, Broadcasting Notice of Consultation CRTC 2013-536, 4 October 2013*
- *Standard conditions of licence for campus and community radio stations, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012*
- *Campus and community radio policy, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010*