



Broadcasting Decision CRTC 2017-423

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Reference: 2017-94

Ottawa, 30 November 2017

Dufferin Communications Inc.
Winnipeg, Manitoba

Application 2017-0030-3, received 20 January 2017

Public record for this application

Public hearing in the National Capital Region

15 June 2017

CKJS Winnipeg – Conversion to the FM band

*The Commission **approves** the application by Dufferin Communications Inc. for a broadcasting licence to operate an ethnic commercial specialty FM radio station in Winnipeg to replace its ethnic commercial AM radio station CKJS Winnipeg.*

Application

1. Dufferin Communications Inc. (Dufferin) filed an application for a broadcasting licence to operate an ethnic commercial specialty FM radio station in Winnipeg to replace its ethnic commercial AM radio station CKJS Winnipeg.
2. Dufferin is a wholly owned subsidiary of Evanov Communications Inc., which in turn is controlled by Mr. William Vasil Evanov.
3. The FM station would operate at 92.7 MHz (channel 224B) with an average effective radiated power (ERP) of 19,700 watts (maximum ERP of 35,000 watts with an effective height of antenna above average terrain of 154 metres).
4. The station would broadcast 126 hours of local programming in each broadcast week, including discussions on topics of interest and reporting on community events, festivals and traditions, medical and financial news, school closings, traffic and weather. Dufferin indicated that it would adhere to a condition of licence requiring it to direct ethnic programming to at least 19 cultural groups in at least 16 different languages.
5. The station would offer Top 40 ethnic music and a blend of world beat and international, non-classic religious, pop, rock and dance and easy listening music, as well as spoken word and multi-faith programs. Finally, it would feature Canadian emerging artists both on air and on the station's website.

Interventions

6. The Commission received opposing interventions from several individuals, as well as from Gill Broadcasting Ltd. (Gill Broadcasting) and CKYZ Radio AWAZ – 92.9 LPFM Ltd. (CKYZ Radio), the operator of the exempt low-power tourist information FM radio station CKYZ-FM Winnipeg, which broadcasts at 92.9 MHz.
7. All interveners requested that the Commission hold a public process and issue a call for applications for a new FM licence to serve Winnipeg's ethnic communities.
8. Among other things, the individuals argued that the only purpose of the application was to force CKYZ-FM off the air and that the people of Winnipeg would benefit from another ethnic radio station to complement CKJS.
9. CKYZ Radio and Gill Broadcasting stated that Dufferin had not notified CKYZ-FM of the proposed use of 92.7 MHz and that this frequency was the last full-power FM frequency available for Winnipeg. Gill Broadcasting further submitted that Dufferin should have filed for a technical amendment rather than a new licence and thus should have demonstrated technical or economic need for the AM to FM conversion. Finally, it noted that the application was filed less than two years after its own application for an ethnic commercial FM station in Winnipeg was denied in Broadcasting Decision 2015-15.

Applicant's reply

10. Dufferin noted that CKYZ-FM is an unprotected exempt low-power tourist station and submitted evidence that Teknyx Limited had notified CKYZ-FM on its behalf of the proposed use of 92.7 MHz. It also noted that this frequency is one of the last full-power frequencies available for Winnipeg.
11. Finally, Dufferin submitted that all proper forms and documents were completed to support its application and that approval of its application would neither prevent Gill Broadcasting or others from finding another low-power frequency nor prevent CKYZ Radio from proceeding with its own application process to obtain protection on any future frequencies.

Commission's analysis

12. Having examined the public record for this application in light of applicable policies and regulations, the Commission considers that it must address the following issues:
 - the application of the Commission's call policy;
 - the impact on CKYZ-FM;
 - the nature of the application; and

- the objectives set out in Public Notice 1999-117 (the Ethnic Broadcasting Policy).

Application of the call policy

13. The Commission's policy on the issuance of calls for applications is set out in Broadcasting Regulatory Policy 2014-554. In that policy, the Commission recognized that a call for applications may not be beneficial in all instances and set out a number of exceptions where a call would not be necessary, including proposals with very little or no commercial potential or impact. In this case, CKJS is the only licensed ethnic station in Winnipeg, and the incremental revenues projected by Dufferin for the new FM station represent no more than 1% of the total revenues garnered for that market in the 2015-2016 broadcast year. Moreover, the proposed frequency is not the last known frequency in Winnipeg. As such, the Commission considers that this proposal would have very little or no commercial impact and that a call for applications is not necessary in this case.
14. Further, in accordance with Broadcasting Policy 2014-554, the Commission will not generally be disposed to accept applications for a commercial station in a specific market for a period of two years following the issuance of a decision approving a new service as a result of a call or where it has decided not to issue a call due to market capacity concerns. However, since Gill Broadcasting's application was not subject to a call for applications, no such two-year pause was in effect and nothing prevented Gill Broadcasting or others from submitting applications to serve the Winnipeg market.

Impact on CKYZ-FM

15. The Commission is satisfied that CKYZ-FM received notice of the applicant's proposal to use the 92.7 MHz frequency. Pursuant to the rules and procedures established by the Department of Industry (the Department), CKYZ-FM must either vacate the 92.9 MHz frequency and submit an application to use a frequency other than 92.9 MHz to continue the operation of its low-power station or find another solution that will enable it to continue using the same frequency and meet the Department's interference protection requirements in relation to the Dufferin station.

Nature of the application

16. Under the Commission's procedures, a licensee seeking to convert an AM station to the FM band must file an application to obtain a new broadcasting licence rather than a technical amendment to its existing broadcasting licence.

Ethnic Broadcasting Policy

17. As set out in the Ethnic Broadcasting Policy, ethnic stations are expected to serve a range of ethnic groups in a variety of languages, striking a balance between serving as many groups as practical and providing high-quality programming to those groups.

18. The Commission establishes the minimum number of distinct groups that a station must serve on the basis of the demographics of the community, the services already available and the degree of support shown by local community organizations. In addition, in establishing the required number of distinct groups to be served, the Commission will also weigh the ability of ethnic stations to provide appropriate amounts of quality programming to these groups and the availability of ethnic programming from all stations serving a market.
19. In the Commission's view, Dufferin's proposal meets the objectives of the Ethnic Broadcasting Policy, while maintaining the only licensed ethnic station in Winnipeg that provides local reflection, news and information.

Conclusion

20. In light of all of the above, the Commission **approves** the application by Dufferin Communications Inc. for a broadcasting licence to operate an ethnic commercial specialty FM radio programming undertaking in Winnipeg to replace its ethnic commercial AM radio programming undertaking CKJS Winnipeg. The terms and **conditions of licence** are set out in the appendix to this decision.

Employment equity

21. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Employment and Social Development, its employment equity practices are not examined by the Commission.

Simulcast period and revocation of AM licence

22. As set out in the appendix to this decision, Dufferin is authorized to simulcast the programming of the new FM station on CKJS Winnipeg for a transition period of three months following the commencement of operations of the FM station. Pursuant to sections 9(1)(e) and 24(1) of the *Broadcasting Act* and consistent with the licensee's request, the Commission **revokes** the licence for CKJS Winnipeg effective at the end of the simulcast period.

Licence renewal term

23. The current licence expiry date for CKJS is 31 August 2018. To ensure that CKJS continues to operate until such time as the new FM commences its operations, the Commission will consider the administrative renewal of CKJS.

Secretary General

Related documents

- *Ethnic commercial FM radio station in Winnipeg*, Broadcasting Decision CRTC 2015-15, 22 January 2015
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014
- *Ethnic broadcasting policy*, Public Notice CRTC 1999-117, 16 July 1999

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2017-423

Terms, conditions of licence and expectation for the ethnic commercial specialty FM radio programming undertaking in Winnipeg, Manitoba

Terms

The licence will expire 31 August 2024.

The station will operate at 92.7 MHz (channel 224B) with an average effective radiated power (ERP) of 19,700 watts (maximum ERP of 35,000 watts with an effective height of antenna above average terrain of 154 metres).

Pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Furthermore, the Commission will only issue a licence for this undertaking once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before **30 November 2019**. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

1. The licensee shall adhere 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, with the exception of condition of licence 7.
2. The station shall be operated within the specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy 2010-819, 5 November 2010.
3. In each broadcast week, the licensee shall provide programming directed to at least 19 cultural groups in at least 16 languages.
4. The licensee is authorized to simulcast the programming of the new FM station on CKJS Winnipeg for a transition period of three months following the commencement of operations of the FM station.

Expectation

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.