



Broadcasting Decision CRTC 2010-964

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Route reference: 2010-715

Ottawa, 23 December 2010

CTV Limited

Toronto, Ontario

Application 2010-1191-5, received 27 July 2010

Public hearing in Gatineau, Quebec

26 November 2010

CFXJ-FM Toronto – Acquisition of assets

*The Commission **approves** the application by CTV Limited for authority to acquire, from Milestone Radio Inc. (Milestone), the assets of the English-language commercial radio station CFXJ-FM Toronto and for a new broadcasting licence to continue the operation of the station under the same **conditions** as those in effect under the current licence.*

The application

1. The Commission received an application by CTV Limited (CTV) for authority to acquire, from Milestone Radio Inc. (Milestone) the assets of the radio programming undertaking CFXJ-FM Toronto, known as “The New Flow 93.5” and for a new broadcasting licence to continue the operation of the undertaking under the same conditions as those in effect under the current licence.
2. CTV is controlled by CTVglobemedia Inc. while Milestone, the vendor, is controlled by Denham B. Jolly. The Commission notes that Milestone Media Broadcasting Ltd. is looking to step out of the broadcasting industry. In this regard Rogers Broadcasting Limited filed an application (application 2010-1192-3) for authority to acquire, from CTV Limited and Milestone Media Broadcasting (Edmonton) Limited, partners in a general partnership carrying on business as Edmonton Urban Partnership, their other indirectly held radio undertaking, CHBN-FM Edmonton, that is also scheduled on this public hearing.
3. In addition to the condition of licence set out in Broadcasting Regulatory Policy [2009-62](#), CTV has agreed to fulfill CFXJ-FM’s commitment to contribute a minimum of \$25,000 in each broadcast year to direct expenditures to support local initiatives to develop and showcase Canadian urban artists until the end of the 2013 broadcast year. This commitment is captured by condition of licence and is in addition to any other amounts required under the *Radio Regulations, 1986*.

Interventions

4. The Commission received interventions in support, as well as an intervention commenting on the application from Mr. Keith Baker, Mr. Michael Charles and Mr. Eb Reinbergs. The interventions as well as the applicant's reply are available on the Commission's website at www.crtc.gc.ca under "Public proceedings."
5. The intervention in comment submitted that CFXJ-FM originally proposed an urban music format to serve the Black community in the Greater Toronto Area but that the station has shifted from its original format. The interveners proposed measures, such as imposing conditions of licence relating to the music genre, to ensure that CTV would maintain the original programming orientation of the station. CTV responded by stating that CFXJ-FM is not subject to a condition of licence relating to the percentage of music of a particular genre that must be broadcast by the station. Furthermore, CTV highlighted the fact that the Commission does not regulate the percentage of music from particular genres that must be broadcast except for stations operating in a specialty music format.

Commission's analysis and determinations

6. The Commission has identified the following issues to be addressed in its determinations:
 - the assessment of the value of the transaction; and
 - the assessment of the proposed tangible benefits package.

The assessment of the value of the transaction

7. Because the Commission does not solicit competing applications for authority to transfer the ownership or control of radio, television and other programming undertakings, the onus is on the applicant to demonstrate that the benefits proposed in the application are commensurate with the size and nature of the transaction (refer to Public Notice 1998-41 and Broadcasting Public Notice 2006-158).
8. In accordance with the Assets Purchase Agreement between CTV and Milestone, the purchase price for the acquisition of the assets is \$27 million.
9. The Commission's general practice is to include in the value of the transaction, among other things, the value of assumed leases. This value excludes leases expected to be cancelled and service agreements. The purchaser will be assuming leases in the amount of \$574,306.
10. Consequently, the value of the transaction amounts to \$27,574,306, as show in the following table.

Revised value of the transaction

Purchase price	\$27 million
Add:	
Assumed leases	\$574,306
Total	<u>\$27,574,306</u>

The assessment of the proposed tangible benefits package

11. Consistent with the Commission's tangible benefits policy set out in Broadcasting Public Notice 2006-158, CTV proposed a tangible benefits package equal to 6% of the proposed value of the transaction.
12. Additionally, in Broadcasting Regulatory Policy 2010-499, the Commission amended its approach to the allocation of tangible benefits. Accordingly, tangible benefits must be distributed as follows:
 - 3% to the Radio Starmaker Fund or Fonds Radiostar
 - 1.5% to FACTOR or MUSICACTION;
 - 1% to a Canadian Content Development (CCD) initiative, at the discretion of the purchaser; and
 - 0.5% to the Community Radio Fund of Canada (CRFC).
13. Considering the revised value of the transaction, the value of the proposed tangible benefits package will increase from the proposed \$1,620,000 to \$1,654,458 (i.e. 6% of the revised amount of \$27,574,306).
14. Accordingly, based on the new approach to allocating tangible benefits set out in Broadcasting Regulatory Policy 2010-499, and considering the revised value of the transaction, the Commission directs CTV to allocate its benefits contribution, as follows over seven consecutive broadcast years:
 - \$827,229 to the Radiostarmaker Fund;
 - \$413,615 to FACTOR
 - \$275,743 to any of the above initiatives, to other CCD initiatives, or to other eligible third parties; and
 - \$137,871 to the CRFC.

Other matters

15. The Commission notes the request by the interveners concerning the imposition of measures to ensure that CTV reinstates and maintains CFXJ-FM's original music

format. In this regard, the Commission notes that specific conditions of licence relating to the music format were not imposed for CFXJ-FM when the licence was issued and that Milestone is in compliance with its current conditions of licence. Accordingly, the Commission does not consider it appropriate to impose a condition of licence regarding music format.

Conclusion

16. The Commission **approves** the application by CTV Limited for authorization to acquire the assets of the radio programming undertaking CFXJ-FM Toronto from Milestone Radio Inc. Upon surrender of the current licence issued to Milestone Radio Inc., the Commission will issue a new licence to CTV Limited that will expire 31 August 2017. The new licence will be subject the same conditions as those in effect under the current licence, as set out in the appendix to this decision.

Employment equity

17. Because the licensee is subject to the *Employment Equity Act* and file reports concerning employment equity with Human Resources and Skills Development Canada, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998

**This decision is to be appended to the licence.*

Appendix to Broadcasting Decision 2010-964

Terms and conditions of licence for CFXJ-FM Toronto

Terms

The licence will expire 31 August 2017.

Conditions of licence

1. The licence will be subject 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.
2. In addition to the required basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall devote a minimum of \$25,000 in each broadcast year to direct expenditures to support local initiatives to develop and showcase Canadian urban artists, until 31 August 2013.