



Broadcasting Decision CRTC 2011-421

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Route reference: 2010-548

Ottawa, 14 July 2011

101056012 Saskatchewan Ltd.
Yorkton, Saskatchewan

Application 2010-0915-0, received 2 June 2010

CJJC-FM Yorkton – Licence amendments

*The Commission **approves** the application by 101056012 Saskatchewan Ltd. to amend the broadcasting licence for the English-language specialty radio station CJJC-FM Yorkton by changing the frequency and the authorized contours.*

Introduction

1. The Commission received an application by 101056012 Saskatchewan Ltd. to amend the broadcasting licence for the English-language specialty radio programming undertaking CJJC-FM Yorkton by changing the frequency from 100.5 MHz (channel 263LP) to 98.5 MHz (channel 253B). The licensee also proposed to change the authorized contours by relocating its transmitter and increasing the effective radiated power (ERP) from 44.8 to 50,000 watts (non-directional antenna with an effective height of antenna above average terrain of 118 metres). The increase in power would result in a change to CJJC-FM's status from that of a low-power unprotected station to that of a protected Class B station.
2. The licensee stated that the technical change would allow it to reach a larger audience and that the expanded listening area could increase its advertising revenues and allow the station to become financially viable. The licensee further indicated that if the Commission approved its application, it would increase its contributions to Canadian content development (CCD) by devoting an over and above annual CCD contribution of \$700 to MUSICACTION.
3. In Broadcasting Notice of Consultation 2010-548, the Commission noted that the proposed contours would increase the population served in the 3 mV/m contour and the 0.5 mV/m contour from 18,000 to 30,000 and 25,000 to 78,000. The Commission also noted that the licensee may have failed to comply with section 9(2) of the *Radio Regulations, 1986* (the Regulations) regarding the submission of annual returns by the 30 November deadline for the 2005-2006, 2006-2007 and 2008-2009 broadcast years. Further, the Commission noted that the annual returns filed for the 2006-2007, 2007-2008 and 2008-2009 broadcast years were incomplete.

Background

4. In Broadcasting Decision 2007-353, the Commission denied a previous application by the licensee to expand its service by adding a new FM transmitter in Melville, Saskatchewan. In that decision, the Commission noted that CJJC-FM Yorkton was originally licensed to serve the community of Yorkton only and that the licensing decision did not address the servicing of Yorkton's surrounding areas. The Commission determined that the licensee did not demonstrate either a technical or economic need that would justify an expansion of its service.
5. In Broadcasting Decision 2008-344, the Commission denied a second application by the licensee seeking technical amendments. The technical parameters proposed at that time were the same as those proposed in the current application. The Commission determined that the licensee had not demonstrated a compelling economic need for the requested increases in power and coverage area and that approval of the application in the absence of any compelling evidence of economic or technical need would serve to undermine the integrity of the licensing process. The Commission also noted that the station had been in operation for less than three years and that the licensee's arguments focussed on its desire to expand the existing advertiser base rather than making a case that the existing local advertising base in Yorkton was too small to support the original business plan.

Interventions

6. The Commission received numerous interventions in support of the application, as well as an intervention in opposition by Harvard Broadcasting Inc. (Harvard), licensee of the commercial radio stations CJGX and CFGW-FM Yorkton. The interventions and the applicant's reply can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
7. Harvard stated that it opposed CJJC-FM's application for the following reasons:
 - Approval of this application would call into question the integrity of the Commission's licensing process.
 - The Commission already denied a similar application by CJJC-FM in 2008.
 - The licensee did not provide compelling evidence of a technical need to justify the proposed amendments.
 - Approval of this application would have an undue negative impact on the profitability of Harvard's commercial radio stations.
 - The Commission does not generally approve licence amendments if the licensee is not in compliance with its conditions of licence or the Regulations.

Applicant's reply

8. In response to the intervention by Harvard, the applicant indicated that it had provided documentation demonstrating a compelling economic need for the requested increases in power and coverage area. It further explained that since 2005 its revenue projections had not been met and that it needed to change its strategy to become viable. Specifically, the applicant submitted that the proposed changes were necessary to meet the needs of local advertisers, which meant reaching a significant rural consumer base. The applicant also added that the Yorkton market was experiencing enviable growth. Finally, with respect to the non-compliance, the applicant indicated that it had now taken the necessary steps to ensure future compliance.

Commission's analysis and determinations

9. The Commission generally expects applicants to make every effort to meet business plan projections during the first licence term before applying to the Commission for a technical amendment based on economic need as it is not unusual for radio stations to experience operating losses in the first three years of operations. Further, in applications where the technical amendment requested would result in a change of status from that of a low-power unprotected station to that of a protected Class B station, the primary issue to be considered is whether there is compelling evidence of a technical or demonstrated economic need that would justify approval of the application.
10. In this case, the Commission notes that the station is now nearing the end of its first licence term and that it has yet to achieve profitability. Given the limitations resulting from the specialized nature of the religious specialty format of CJJC-FM, as well as the fact that it is in the sixth year of its initial licence term with only a slight improvement in its financial performance since commencing operations, the Commission considers that there is sufficient evidence of an economic need for the proposed changes. Further, the Commission notes that the increase in advertising revenues expected by the applicant represents a modest 1.5% of the market's overall revenues, which totalled \$6 million in 2010. The Commission also notes that the two commercial stations in the Yorkton market have the benefit of synergies resulting from the fact that they are both owned by Harvard. Finally, given the above-noted limitations inherent in CJJC-FM's specialty format, the Commission considers that the impact of the proposed amendments on the commercial stations in the Yorkton market would likely be modest.
11. With respect to the integrity of the licensing process, the Commission notes that it stated in Broadcasting Public Notice 2006-159 that applications for new radio undertakings or AM to FM conversions would generally result in a call for applications, with certain exceptions. Among the exceptions listed were proposals with very little or no commercial potential or impact. Given its assessment of the limited commercial impact associated with the proposed amendments, the Commission considers that the above-noted exception can be applied in the case of CJJC-FM. As such, the Commission finds that a call for applications would not

necessarily have been triggered by the applicant's proposal. Accordingly, the Commission concludes that approval of this application, given the particular circumstances of this case, would not serve to undermine the integrity of the licensing process.

12. Finally, with respect to the licensee's non-compliance, the Commission announced a revised approach to deal with radio stations found out of compliance in Broadcasting Information Bulletin 2011-347. In particular, the Commission noted that when considering applications for licence amendments, it will no longer automatically deny the amendment but will 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.
13. In this case, the licensee indicated that although the missing annual returns had been completed on time, it had failed to submit them to the Commission on time. It also indicated that it had implemented a checklist system to ensure future compliance. The Commission notes that the annual returns are now complete. As per its current practice, the Commission will address any non-compliance issues fully in the context of the station's licence renewal in 2012. At that time, the Commission will have an opportunity to impose corrective measures on CJJC-FM if it deems these to be necessary.

Conclusion

14. In light of all of the above, the Commission **approves** the application by 101056012 Saskatchewan Ltd. to amend the broadcasting licence for the English-language specialty radio programming undertaking CJJC-FM Yorkton by changing the frequency from 100.5 MHz (channel 263LP) to 98.5 MHz (channel 253B) and to change the authorized contours by relocating its transmitter and increasing the ERP from 44.8 to 50,000 watts (non-directional antenna with an effective height of antenna above average terrain of 118 metres).
15. The Commission also imposes the following **condition of licence**:
 - The licensee shall devote a minimum of \$700 in each broadcast year to MUSICACTION to support Canadian content development (CCD). This contribution is in addition to the basic CCD contributions required under section 15 of the *Radio Regulations, 1986*.
16. The Department of Industry (the Department) has advised the Commission that while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.

17. The Commission reminds the licensee that pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.
18. The transmitter 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 **14 July 2013**. In order to ensure that such a request is processed in a timely manner, it should be submitted in writing at least 60 days before that date.

Secretary General

Related documents

- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- Broadcasting Notice of Consultation CRTC 2010-548, 3 August 2010
- *CJJC-FM Yorkton – Technical changes*, Broadcasting Decision CRTC 2008-344, 4 December 2008
- *CJJC-FM Yorkton – New transmitter at Melville*, Broadcasting Decision CRTC 2007-353, 20 September 2007
- *Revised policy concerning the issuance of calls for radio applications and a new process for applications to serve small markets*, Broadcasting Public Notice CRTC 2006-159, 15 December 2006

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