



## Broadcasting Decision CRTC 2011-651

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Route reference: 2011-336

Ottawa, 18 October 2011

**Jean-Noël Allain, on behalf of a corporation to be incorporated**  
Bouctouche, New Brunswick

*Application 2010-0728-7, received 28 April 2010*  
*Public hearing in the National Capital Region*  
*18 July 2011*

### English-language community FM radio station in Bouctouche

*The Commission **denies** an application for a broadcasting licence to operate a predominantly English-language community FM radio station in Bouctouche.*

#### The application

1. The Commission received an application by Jean-Noël Allain, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a predominantly English-language<sup>1</sup> community FM radio programming undertaking in Bouctouche, New Brunswick.
2. The proposed station would operate on frequency 100.7 MHz (channel 264B) with an average effective radiated power (ERP) of 10,423 watts (maximum ERP of 50,000 watts with an effective height of antenna above average terrain of 107.7 metres).<sup>2</sup>
3. The applicant proposed to broadcast 126 hours of programming per broadcast week, of which 73 hours would be in the English language, 48 in the French language (the Chiac dialect) and 5 in the German language. The applicant also indicated that it would offer some Aboriginal-language programming. The station's format would consist of a mix of Country, Oldies (50's, 60's and 70's) and international music.
4. The applicant stated that it wished to form a music band to represent the radio station as part of its long-term goal of promoting Canadian emerging talent.

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<sup>1</sup> In Broadcasting Notice of Consultation CRTC 2011-336, 19 May 2011, the Commission indicated that the application was for a French-language community FM radio programming undertaking.

<sup>2</sup> These technical parameters reflect those approved by the Department of Industry.

Additionally, the applicant stated that it wished to create a network for musicians and songwriters within its community.

## **Interventions**

5. The Commission received interventions in opposition to the application by the Association des radios communautaires acadiennes du Nouveau-Brunswick, the Alliance des radios communautaires du Canada (ARC du Canada), the Fédération des femmes acadiennes et francophones du Nouveau-Brunswick inc., La coopérative de théâtre l'Escaouette Ltée, Radio Beauséjour Inc. (Radio Beauséjour) and the Société de l'Acadie du Nouveau-Brunswick. The Commission also received a comment by Hervé and Rhéal LeBlanc. The applicant did not respond to the interventions. The complete record of this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
6. The interveners in opposition stated that the market was already well served by the two French-language community stations owned by Radio Beauséjour, CFBO-FM Moncton and CJSE-FM Shediac. ARC du Canada added that if the application were approved, it might adversely affect neighbouring community stations, namely CKMA-FM Miramichi, CKRO-FM Pokemouche and CKUM-FM Moncton. ARC du Canada further questioned the validity of the financial projections contained within the application.
7. Radio Beauséjour submitted that CJSE-FM and CFBO-FM already provided the programming proposed by the applicant. Additionally, Radio Beauséjour argued that the introduction of a new community station into the marketplace would serve to fragment the market.
8. In their comment, Hervé and Rhéal LeBlanc stated that they were surprised to learn that their names had been associated with the application, as they had not been retained by Mr. Allain. Furthermore, they requested that the Commission remove their names from the application.

## **Commission's analysis and decisions**

9. With respect to the concerns expressed by certain interveners over the potential impact of the proposed station on existing community services, the Commission notes that the primary contour of the proposed station would not encompass the larger communities served by the two community stations operated by Radio Beauséjour. The Commission further notes that the community stations mentioned in the intervention by ARC du Canada are also not encompassed within the applicant's proposed primary contour. Further, although the applicant did identify Moncton and Shediac as communities from which it anticipates advertising revenues, the Commission considers that the proposed contours of the station, combined with the financial performance of the existing community

stations in these markets, are such that the impact of the proposed station on their viability would not be undue.

10. With respect to the comment submitted by Hervé and Rhéal LeBlanc, the Commission notes that the content of an application is the responsibility of the applicant and that any requests regarding third-party information contained within the application should be made to the applicant. Nevertheless, the Commission acknowledges that Messrs. Hervé and Rhéal LeBlanc have stated their desire to disassociate themselves from the present application.
11. Since the applicant proposed to operate a community radio station, the Commission has considered the application in light of the provisions of the *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010 (the campus and community radio policy).
12. After examining the public record for this application in light of applicable policies and regulations, the Commission considers that the issues it must address are the following:
  - Does the proposal adhere to the revised conditions of licence outlined in the campus and community radio policy?
  - Does the proposed programming reflect the objectives of the campus and community radio policy?
  - Does the proposal reflect the mandate for community stations set out in the campus and community radio policy?

**Does the proposal adhere to the revised conditions of licence outlined in the campus and community radio policy?**

13. In the campus and community radio policy, the Commission announced a number of changes to the regulatory framework for campus and community radio stations. The Commission requested that the applicant confirm that it would adhere to the revised conditions of licence outlined in the policy.
14. In response, the applicant did not confirm if it would adhere to the revised conditions of licence, but rather outlined its music programming plans. The Commission notes that the information regarding the applicant's music programming plans that was provided in response to the above-noted request was different from the music programming plans that were previously provided in the application and other related correspondence with the Commission.
15. The applicant did not confirm that it would adhere to the revised conditions of licence outlined in the campus and community radio policy and therefore failed to demonstrate that its proposed station would properly adhere to this policy.

**Does the proposed programming reflect the objectives of the campus and community radio policy?**

16. Paragraph 12 of the campus and community radio policy states:

The programming of campus and community radio should distinguish itself from that of the commercial and public sectors in both style and substance, offering programming that is rich in local information and reflection. The programming provided by campus and community radio should meet the needs and interests of the communities served by these stations in ways that are not met by commercial radio stations and the Canadian Broadcasting Corporation.

17. Accordingly, the Commission considers that community stations should add diversity to the broadcasting system by increasing programming choices in both music and spoken word.

18. With respect to music, the applicant stated that its music programming was to be classified as content category 2 (Popular Music), subcategory 22 (Country and country-oriented). The applicant also stated that three hours of its weekly programming would be devoted to music selections from category 3 (Special Interest Music), subcategories 31 (Concert), 32 (Folk and folk-oriented) and 33 (World beat and international).

19. The Commission requested that the applicant clarify its music programming plans. In its reply, the applicant specified that 50% of its musical programming would consist of country and country-oriented music and at least 35% of Rock-and-Roll Oldies (50's, 60's, and 70's), which is categorized by the Commission as category 2, subcategory 21, and not category 3 as indicated by the applicant.

20. With respect to spoken word programming, the Commission requested that the applicant submit descriptions of the programming content as outlined in its proposed block programming schedule. In response, the applicant provided no additional descriptions.

21. After reviewing the application, the Commission notes that the applicant failed to demonstrate the range of programming diversity, spoken word and community reflection required by the campus and community radio policy.

22. In light of the above, the Commission is concerned by the apparent commercial programming orientation of the service proposed by the applicant.

**Does the proposal reflect the mandate for community stations set out in the campus and community radio policy?**

23. The mandate for community stations established in the campus and community radio policy states, among other things, that local programming is to be produced in part by volunteers. Accordingly, the Commission requested that the applicant

elaborate on its plans for volunteer participation and training in the activities of the proposed station. In response, the applicant did not provide the details necessary for the Commission to properly evaluate the applicant's volunteer plans and thereby failed to demonstrate that the proposed station properly reflects the mandate for community stations set out in the campus and community radio policy.

## **Conclusion**

24. The Commission considers that the programming and volunteer plans proposed by the applicant do not demonstrate a clear understanding of the campus and community radio policy. The Commission further considers that the proposed radio station would not achieve the range of programming diversity and community reflection in both music and spoken word required by that policy.
25. The Commission also reminds the applicant that its consideration of any new proposal is based on the merits of the application as presented, which in this case was absent of details despite numerous letters to the applicant from Commission staff. The Commission further notes the apparent lack of support for this application by the community to be served.
26. In light of all of the above, the Commission **denies** the application by Jean-Noël Allain, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a predominantly English-language community FM radio programming undertaking in Bouctouche, New Brunswick.

Secretary General