



Broadcasting Decision CRTC 2011-661

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Route reference: 2011-427

Additional reference: 2011-427-1

Ottawa, 24 October 2011

Dufferin Communications Inc.

Winnipeg, Manitoba

Application 2011-0900-2, received 31 May 2011

Public hearing in the National Capital Region

19 September 2011

CHNK-FM Winnipeg – Acquisition of assets and licence amendment; CKJS Winnipeg – Acquisition of assets and licence renewal

*The Commission **approves** the application by Dufferin Communications Inc. (Dufferin) for authority to acquire from Newcap Inc. the assets of the English-language commercial radio stations CHNK-FM and CKJS Winnipeg, and for new broadcasting licences to continue the operation of these stations.*

*The Commission also **approves** Dufferin's request to amend CHNK-FM's condition of licence relating to the broadcast of musical selections from content category 2 (Popular Music).*

*Finally, the Commission **renews** the broadcasting licence for CKJS from 1 April 2012 to 31 August 2018.*

Introduction

1. The Commission received an application by Dufferin Communications Inc. (Dufferin) for authority to acquire from Newcap Inc. (Newcap) the assets of the commercial radio programming undertakings CHNK-FM Winnipeg (formerly CHNR-FM Winnipeg) and CKJS Winnipeg. The applicant also requested new broadcasting licences to continue the operation of the undertakings.¹ The Commission did not receive any interventions in connection with this application.

¹ The broadcasting licence for CHNK-FM expires 31 August 2013. In regard to CKJS, in Broadcasting Decision 2011-556, the Commission renewed the broadcasting licence for that station from 1 September 2011 to 31 March 2012.

2. Dufferin is a wholly owned subsidiary of Evanov Communications Inc., a corporation controlled by Mr. William Evanov.
3. In regard to CKJS, an ethnic station, the applicant proposed to operate the station under the same terms and conditions as those in effect under the current licence. In regard to CHNK-FM, the applicant requested an amendment to its condition of licence relating to the broadcast of musical selections from content category 2, which currently reads as follows:

The licensee shall ensure that no more than 60% of all musical selections broadcast during each broadcast week are selections drawn from category 2 (Popular Music).

Specifically, the applicant proposed to increase to 70% the maximum amount of musical selections broadcast during each broadcast week that may be drawn from content category 2.

4. Pursuant to the Asset Purchase and Sale Agreement, the purchase price for the combined assets of CHNK-FM and CKJS is \$5.5 million.

Commission's analysis and decisions

5. After examining the application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
 - Is the transaction subject to tangible benefits?
 - Is the modification to the condition of licence relating to the broadcast of content category 2 musical selections appropriate?

Tangible benefits

6. In Public Notice 1998-41, as reaffirmed in Broadcasting Public Notice 2006-158, the Commission stipulated that it would forego benefit requirements for unprofitable radio programming undertakings. In regard to the present application, CHNK-FM and CKJS have been unprofitable and have recorded a negative average profit before interest and taxes for at least the past three years. Accordingly, the Commission considers it appropriate not to require the present transaction to be subject to tangible benefits.
7. The Commission notes that Newcap acquired control of CHNK-FM in 2005 and of CKJS in 2006,² and that Dufferin has committed to assume the unfulfilled tangible benefits resulting from those previous transactions.

² See Broadcasting Decision 2005-554 and Broadcasting Public Notice 2006-71, respectively.

Appropriateness of the proposed modification to the condition of licence relating to the broadcast of content category 2 musical selections

8. CHNK-FM was originally licensed in Broadcasting Decision 2002-225 to operate as a commercial FM radio station serving Winnipeg in the specialty programming format. In that decision, the Commission concluded that the station would add programming diversity to the Winnipeg market and would not have an undue negative financial impact on existing Winnipeg commercial radio stations.
9. Dufferin indicated that the increase in the station's broadcast of content category 2 musical selections would make it more attractive to Winnipeg listeners while nevertheless maintaining a level of musical diversity offered through the specialty format. The applicant also noted that CHNK-FM has not been profitable over its first licence term and that the proposed amendment to the condition of licence would improve the financial viability of the station.
10. The Commission notes that with the proposed amendment, CHNK-FM would remain a specialty station, as it would still meet the criterion of devoting no more than 70% of all musical selections broadcast during each broadcast week to musical selections from content category 2, as required by Broadcasting Regulatory Policy 2010-819. The Commission further notes that it did not receive any interventions in this regard from incumbent stations in the Winnipeg radio market.
11. Given the foregoing, the Commission is of the view that the proposed modification would not undermine the diversity in the Winnipeg radio market and would not have an undue negative impact on that radio market.

Conclusion

12. In light of all of the above, the Commission **approves** the application by Dufferin Communications Inc. for authority to acquire from Newcap Inc. the assets of the commercial radio programming undertakings CHNK-FM Winnipeg and CKJS Winnipeg, and for new broadcasting licences to continue the operation of the undertakings. The Commission also **approves** the modification to the condition of licence for CHNK-FM relating to the broadcast of musical selections from content category 2. Upon surrender of the current licences, the Commission will issue new licences to Dufferin Communications Inc. for CHNK-FM and CKJS under the terms and **conditions** set out, respectively, in Appendices 1 and 2 to this decision.

Other matters

Renewal of the broadcasting licence for CKJS

13. The Commission notes that the original expiry date of the broadcasting licence for CKJS was 31 August 2011, and that although the licensee submitted an application to renew the station's broadcasting licence prior to that date, that licence was renewed administratively in Broadcasting Decision 2011-556 from 1 September 2011 to 31 March 2012, as noted above. Dufferin has confirmed with the Commission that it

is also seeking, as part of the present application, to renew the broadcasting licence for CKJS under the same terms and conditions as those set out in the above-noted licence renewal application. Upon examination of the station's performance during the last licence term, the Commission finds that CKJS is in full compliance with the *Radio Regulations, 1986* and its conditions of licence. Accordingly, the Commission **renews** the broadcasting licence for CKJS Winnipeg from 1 April 2012 to 31 August 2018, seven years from the above-noted original licence expiry date.

Employment equity

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

Secretary General

Related documents

- *Administrative Renewals*, Broadcasting Decision CRTC 2011-556, 31 August 2011
- *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Ownership applications granted approval*, Broadcasting Public Notice CRTC 2006-71, 9 June 2006
- *Transfer of effective control*, Broadcasting Decision CRTC 2005-554, 24 November 2005
- *Application for a nostalgia radio station to serve Winnipeg*, Broadcasting Decision CRTC 2002-225, 8 August 2002
- *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998

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

Appendix 1 to Broadcasting Decision CRTC 2011-661

Term, conditions of licence and expectation for CHNK-FM Winnipeg

Term

The licence will expire 31 August 2013.

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. The licensee shall operate the station within the specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-6, 21 April 1995, as amended in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
3. The licensee shall ensure that no more than 70% of all musical selections broadcast during each broadcast week are selections drawn from content category 2 (Popular Music), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
4. The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations):
 - a) in those periods of category 2 music consisting exclusively of music composed before 1956, devote a weekly average of 2% or more of its musical selections from content category 2 broadcast during those periods to Canadian selections broadcast in their entirety. The licensee shall identify those programming periods and the dates of composition of the music selections broadcast during those periods when requested by the Commission.
 - b) in those periods of category 2 music consisting of 90% or more but not exclusively, of music composed before 1956, devote a weekly average of 10% or more of its musical selections from content category 2 broadcast during those periods to Canadian selections broadcast in their entirety. The licensee shall identify those programming periods and the dates of composition of the music selections broadcast during those periods when requested by the Commission.

For the purposes of the above conditions of licence, the terms “broadcast week,” “content category” and “musical selection” shall have the meaning set out in the Regulations.

Expectation

The Commission expects the licensee to ensure that it distributes the station's blend of a maximum of 70% content category 2 musical selections and a minimum of 30% content category 3 musical selections reasonably throughout the broadcast day and the broadcast week, and in particular between 6 a.m. and 6 p.m., Monday to Friday.

Appendix 2 to Broadcasting Decision CRTC 2011-661

Term and conditions of licence for CKJS Winnipeg

Term

The licence will expire 31 August 2018.

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. The licensee shall devote a minimum of 73 hours and 30 minutes of the broadcast week to ethnic programs as defined in the *Radio Regulations, 1986*, as amended from time to time.
3. In each broadcast week, the licensee shall broadcast ethnic programming directed towards not less than 19 cultural groups, in not less than 16 different languages.

For the purposes of the above conditions of licence, the term “broadcast week” shall have the meaning set out in the *Radio Regulations, 1986*.