



Broadcasting Decision CRTC 2013-719

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Route reference: 2013-324

Ottawa, 18 December 2013

JAZZ.FM91 Inc.
Toronto, Ontario

Application 2013-0142-3, received 24 January 2013

CJRT-FM Toronto – Licence renewal and amendment

*The Commission **renews** the broadcasting licence for the English-language radio station CJRT-FM Toronto, Ontario, from 1 January 2014 to 31 August 2020.*

*The Commission **approves** an amendment to the station's condition of licence relating to advertising.*

Introduction

1. The Commission received an application by JAZZ.FM91 Inc. (JAZZ.FM) to renew the broadcasting licence for the English-language radio station CJRT-FM Toronto, Ontario, which expires 31 December 2013.¹
2. As part of its application, the licensee requested to amend its condition of licence relating to advertising in order to remove the limit of four minutes of advertising per hour and to exclude content drawn from subcategories 52 (Sponsor identification) and 53 (Promotion with sponsor mention) from the total allowable advertising minutes. The maximum number of minutes of advertising per broadcast week would remain the same. JAZZ.FM stated that this amendment would allow for greater flexibility in programming.
3. Specifically, the licensee proposed to replace the following condition of licence:

The licensee may broadcast a maximum of 504 minutes of advertising per broadcast week with a maximum of 4 minutes of advertising in any hour. The 504 minutes of advertising is permitted to be drawn from all sub-categories of content category 5 (Advertising), as set out in the appendix to *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000.

¹ The original expiry date of CJRT-FM's broadcasting licence was 31 August 2013. This licence was administratively renewed until 31 December 2013 in Broadcasting Decision 2013-418.

with:

The licensee may broadcast a maximum of 504 minutes of advertising per broadcast week. The 504 minutes of advertising is permitted to be drawn from subcategory 51 (Commercial announcement) of content category 5 (Advertising), as set out in the appendix to *Revised content categories and sub-categories for radio*, Public Notice CRTC 2000-14, 28 January 2000. The licensee may also broadcast content drawn from subcategories 52 (Sponsor identification) and 53 (Promotion with sponsor mention) without limitation.

Interventions

4. The Commission received an intervention in opposition to the application from MZ Media Inc. (MZ Media), licensee of CFMZ-FM Toronto, as well as a comment sent on behalf of the Province of Ontario, to which the licensee replied. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
5. The comment sent on behalf of the Province of Ontario related to the participation of CJRT-FM in the National Public Alerting System (NPAS). As specified in its three-year plan, the Commission will be looking at measures to ensure the participation of Canadian broadcasters and telecommunications service providers in the NPAS. Therefore, the Commission will not impose conditions of licence requiring the participation of broadcasters in the NPAS at this time. However, the Commission expects all licensees to voluntarily participate in the NPAS, so that Canadians receive timely warnings of imminent perils.

Commission's analysis and decision

Licence amendment

6. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that, with respect to the requested licence amendment, the issues it must address are the following:
 - whether the licensee provided evidence of an economic need to justify the amendment; and
 - whether the amendment would result in an undue impact on incumbent stations operating in the Toronto radio market.

Evidence of an economic need

7. In regards to economic need, the licensee did not submit evidence that the amendment is necessary to ensure the service's financial viability. Rather, it stated that the amendment would provide more flexibility in order to be able to concentrate advertising during certain hours of the day but that the total number of advertising minutes would remain the same.

8. The Commission therefore considers that the requested licence amendment is not justified by an economic need.

Impact of the proposed change on other stations in the market

9. In its intervention, MZ Media argued that the proposed amendment would have a negative impact on the Toronto radio market and that CJRT-FM would unfairly compete for advertising revenues when the station already benefits from other revenue streams.
10. In this respect, the Commission notes that CJRT-FM is a non-commercial, not-for-profit station operating in the Other Special FM category as set out in Public Notice 1988-78. As outlined in Public Notice 1988-78, stations operating in the Other Special FM category should provide programming that is clearly complementary to, rather than imitative of, the programming provided by commercial broadcasters. JAZZ.FM did not propose programming changes and would therefore continue to broadcast programming complementary to the commercial stations in the market.
11. In addition, the Commission considers that approval of the requested licence amendment to remove the hourly advertising limit would have a minimal impact on other stations in the market given that the station would continue to be limited to a maximum of 504 minutes of advertising per week.
12. With respect to allowing the licensee to broadcast sponsorship messages without restrictions, the Commission considers that this change would have a negligible impact on the service provided, given that sponsorship messaging is already part of the broadcast mix of the station.

Non-compliance

13. In Broadcasting Notice of Consultation 2013-324, the Commission noted that the licensee was in apparent non-compliance with section 9(2) of the *Radio Regulations, 1986* (the Regulations) concerning the provision of annual returns. Specifically, the financial statements for the 2010-2011 broadcast year were not submitted.²
14. The licensee stated that it encountered technical issues with the Commission website when it submitted its annual return with financial statements for the 2010-2011 broadcast year. Once it found out about the missing financial statements, JAZZ.FM resubmitted them.
15. The Commission therefore finds the licensee in non-compliance with section 9(2) of the Regulations concerning the provision of annual returns for the 2010-2011 broadcast year.

² In Broadcasting Notice of Consultation 2013-324, the Commission erroneously stated that the apparent non-compliance occurred in the 2011-2012 broadcast year when it was, in fact, in the 2010-2011 broadcast year.

Regulatory measures

16. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to non-compliance by radio stations. Specifically, the Commission indicated that each instance of non-compliance would be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also indicated that, in the case of licence renewals and amendments, it would consider the circumstances of the non-compliance, the arguments provided by the licensee and the measures taken to rectify the situation.
17. The Commission has reviewed the record for this application and is satisfied with the licensee's explanations and measures it has put in place to address the non-compliance. Given the circumstances surrounding the non-compliance, the Commission considers it appropriate to grant a full licence term to the station. Further, given the negligible impact the changes would have on incumbent stations, the Commission considers it appropriate to grant the flexibility requested by JAZZ.FM with respect to advertising.

Conclusion

18. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language radio programming undertaking CJRT-FM Toronto from 1 January 2014 to 31 August 2020. In addition, the Commission **approves** the licensee's request to amend its condition of licence relating to advertising in order to remove the limit of four minutes of advertising per hour and to exclude content drawn from subcategories 52 (Sponsor identification) and 53 (Promotion with sponsor mention) from the total allowable advertising minutes. The licensee shall adhere to the **conditions of licence** set out in the appendix to this decision.
19. CJRT-FM operates within the Other Special FM category, as defined in Public Notice 1988-78 and, as such, it is not a community radio station, a community-based campus radio station or an instructional radio station, nor is it considered to be a commercial radio station. As set out in Public Notice 1988-78, the programming provided should be clearly complementary to, rather than imitative of, that provided by commercial broadcasters. In addition, since JAZZ.FM operates as a not-for-profit corporation, it is not subject to the requirements set out in section 15 of the Regulations relating to Canadian content development contributions.

Reminder

20. Pursuant to section 22 of the *Broadcasting Act*, the Commission reminds the licensee that the broadcasting licence will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Secretary General

Related documents

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2013-418, 19 August 2013
- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2013-324, 5 July 2013
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Educational and Institutional Radio – Adoption of the proposed Policy*, Public Notice CRTC 1988-78, 17 May 1988

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

Appendix to Broadcasting Decision CRTC 2013-719

Terms, conditions of licence and encouragement for the English-language radio programming undertaking CJRT-FM Toronto, Ontario

Terms

The licence will expire 31 August 2020.

Conditions of licence

1. The licensee shall, in any broadcast week, devote a minimum of 12% of its musical selections from content category 3 (Special interest music) to Canadian selections broadcast in their entirety.
2. The licensee shall, in any broadcast week, devote a minimum of 75% of its category 3 musical selections to musical selections drawn from subcategory 31 (Concert), subcategory 32 (Folk and folk-oriented) and subcategory 34 (Jazz and blues).
3. The licensee shall broadcast, in any broadcast week, no more than 1% hit material, as defined in *Policy regarding the broadcast of hits by English-language FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-61, 11 February 2009, as amended from time to time.
4. The licensee may broadcast a maximum of 504 minutes of advertising per broadcast week drawn from subcategory 51 (Commercial announcement), as set out in the appendix to *Revised content categories and sub-categories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time. Content drawn from subcategories 52 (Sponsor identification) and 53 (Promotion with sponsor mention) shall not be counted towards the total allowable advertising minutes.
5. If the licensee originates 42 or more hours of programming in any broadcast week, the licensee shall adhere to the *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.

Encouragement

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.