



Broadcasting Decision CRTC 2015-570

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Reference: 2015-433

Ottawa, 21 December 2015

Golden West Broadcasting Ltd.

Lacombe, Alberta

Application 2015-0411-8, received 4 May 2015

Public hearing in the National Capital Region

18 November 2015

CJUV-FM Lacombe – Acquisition of assets

*The Commission **approves** an application by Golden West Broadcasting Ltd. for authority to acquire from L.A. Radio Group Inc. the assets of the English-language commercial radio station CJUV-FM Lacombe, Alberta, and for a new broadcasting licence to continue the operation of the station.*

This transaction will benefit Lacombe by generating more opportunities to seek out and gather local content, thereby increasing the amount of news and information provided to the community, and by securing the station's long-term viability. Accordingly, it serves the public interest and furthers the objectives for the Canadian broadcasting system set out in the Broadcasting Act.

As a result of the tangible benefits arising from this transaction, \$275,884 over the next seven years will flow to various initiatives that support the production and promotion of Canadian music and increase the diversity of radio programming available to listeners.

Application

1. Golden West Broadcasting Ltd. (Golden West) filed an application for authority to acquire from L.A. Radio Group Inc. (L.A. Radio Group) the assets of the English-language commercial radio station CJUV-FM Lacombe, and for a broadcasting licence to continue the operation of the station under the same terms and conditions as those in effect under the current licence. The Commission received an intervention in support of this application.
2. Golden West is a corporation controlled by Mr. Elmer Hildebrand.

Regulatory framework

3. The review of ownership transactions is an essential element of the Commission's regulatory and supervisory mandate under the *Broadcasting Act* (the Act). Since the Commission does not solicit competitive applications for changes in effective control of

broadcasting undertakings, the onus is on the applicant to demonstrate that approval is in the public interest, that the benefits associated with the transaction are commensurate with its size and nature, and that the application represents the best possible proposal under the circumstances.

4. The Commission must consider the merits of each application based on the circumstances specific to the application. In addition, the Commission must be assured that approval of a proposed ownership transaction furthers the public interest as expressed in the objectives set out in section 3(1) of the Act.

Public interest

5. The public interest is reflected in the numerous objectives of the Act, including the Canadian broadcasting policy set out in section 3(1) of the Act. In the context of this transaction, the Commission has paid particular attention to the following objectives of the Canadian broadcasting policy set out in section 3(1)(i):

the programming provided by the Canadian broadcasting system should

- (i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes;
- (ii) be drawn from local, regional, national and international sources; and
- (iv) provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern.

Commission's analysis and decisions

6. CJUV-FM has been operated by L.A. Radio Group since the station's launch in 2006, and is the only local radio station in Lacombe. By acquiring the assets of CJUV-FM, Golden West would be a new entrant in the Lacombe radio market. However, given that it operates multiple radio stations in Alberta, Saskatchewan, Manitoba and Ontario, most of which are in small communities, Golden West has significant experience serving radio markets similar in size to Lacombe.
7. In its application, Golden West stated that it would strengthen CJUV-FM's local character by adding local leadership, additional resources and overall direction. It would achieve synergies by centralizing administrative functions, which would generate more opportunities to seek out and gather local content, thereby increasing the amount of news and information provided to Lacombe. In the Commission's view, these contributions by Golden West would benefit that community. Moreover, the station's long-term viability would be secured by being part of a large and experienced group of radio stations. Accordingly, the Commission finds that the proposed acquisition is in the public interest as it would benefit both Canadians and the broadcasting system and further the achievement of the objectives of the Act.

8. The Commission’s decision that the proposed transaction is in the public interest is based on an assessment of the transaction in light of the regulatory framework set out above. In examining the proposed transaction, the Commission also focused on the following issues:

- the value of the transaction;
- the proposed tangible benefits package; and
- the length of the new licence term to be granted in light of apparent non-compliance by CJUV-FM regarding Canadian content development (CCD) contributions.

Value of the transaction

9. Under its tangible benefits policy set out in Broadcasting Public Notice 2008-57 and amended in Broadcasting Regulatory Policy 2014-459, the Commission determines the value of the transaction for the purpose of calculating the tangible benefits by using the value of the transaction as a whole, including the value of any leases assumed by the purchaser for real property (buildings, studios and offices) and transmission facilities calculated over five years.

10. Pursuant to the Asset Purchase Agreement dated 9 March 2015, the purchase price for the assets is \$4,000,000. Following a request for information, the applicant filed a letter dated 30 July 2015 in which it added \$628,070 in leases for a building, transmission facilities and a vehicle, for a revised value of the transaction totaling \$4,628,070. Given that Broadcasting Regulatory Policy 2014-459 excludes leases for vehicles from the calculation of the value of the transaction, the Commission has not included the amount of \$30,000 that was added by Golden West for a leased vehicle. Accordingly, and based on information provided by the applicant, the Commission has revised the value of the transaction to total \$4,598,070.

Value of the transaction

Purchase price	\$4,000,000
Assumed leases	\$598,070
Total	\$4,598,070

Proposed tangible benefits package

11. As set out in the Commission’s tangible benefits policy, tangible benefits must generally represent at least 6% of the value of the transaction. Golden West originally proposed a tangible benefits package of \$240,000, which is equal to 6% of the initially proposed value of the transaction. However, based on its revised value of the transaction, the

Commission calculates the tangible benefits package to be \$275,884 (i.e., 6% of \$4,598,070).

12. In accordance with the tangible benefits policy, the \$275,884 shall be expended in equal amounts over seven consecutive broadcast years, to be allocated as follows:

- 3% (\$137,942) to the Radio Starmaker Fund or Fonds Radiostar;
- 1.5% (\$68,971) to FACTOR or MUSICACTION;
- 1% (\$45,981) to a CCD initiative, at the discretion of the purchaser; and
- 0.5% (\$22,990) to the Community Radio Fund of Canada (CRFC).

Length of licence term and non-compliance

13. In Broadcasting Decision 2013-347, the Commission renewed the broadcasting licence for CJUV-FM for a short term, from 1 September 2013 to 31 August 2019, because of the station's non-compliance with requirements relating to Canadian talent development (CTD) contributions and the filing of annual returns.

14. When issuing a new broadcasting licence as part of an ownership transaction, the Commission may grant the station a full, seven-year licence term. In determining the length of the licence term, the Commission will take into account any non-compliance. Accordingly, as part of its examination of this application, the Commission has reviewed L.A. Radio Group's compliance with requirements relating to CCD/CTD contributions since the station's last licence renewal.

Basic annual Canadian content development contributions – Ineligibility of an initiative

15. Pursuant to section 15(2) of the *Radio Regulations, 1986* (the Regulations), commercial licensees with total revenues of more than \$1,250,000 are required to make a basic annual contribution to eligible CCD initiatives. The contribution amount is based on the station's total revenues for the previous broadcast year.

16. Based on the annual revenues of CJUV-FM, L.A. Radio Group was required to make a basic annual contribution to CCD for each year of its licence term. For the 2013-2014 broadcast year, L.A. Radio Group indicated that it had made a \$2,500 CCD contribution to Wolf Creek Public Schools for a scholarship. However, it did not file the required supporting documentation with its annual return demonstrating how the CCD funds were used and how the initiative qualifies as an eligible initiative. L.A. Radio Group did submit the required supporting documentation on 8 September 2015 in response to Commission questions, thereby remedying the non-compliance, but did not provide an explanation as to why the documentation was not initially filed as required.

Contributions to the Community Radio Fund of Canada

17. Section 15(5)(a) of the Regulations requires licensees to devote at least 15% of their basic annual CCD contributions to the CRFC. For the 2013-2014 broadcast year, L.A. Radio Group did not make its required basic CCD contribution to the CRFC for CJUV-FM, resulting in a shortfall of \$506. The licensee stated that it was not aware that the CRFC was a mandatory recipient of a portion of the CCD amount required under section 15(2) of the Regulations, and issued a payment to the CRFC on 20 July 2015 to cover the shortfall amount. In regard to the present application, Golden West stated that it would integrate CJUV-FM into its systems to ensure ongoing compliance.

Incurred shortfall for Canadian talent development contributions

18. In Broadcasting Decision 2013-347, the Commission found that for CJUV-FM, L.A. Radio Group had incurred CTD contribution shortfalls in the 2005-2006 and 2010-2011 broadcast years, totalling \$1,333. As a consequence, the Commission imposed the following condition of licence:

5. In addition to the contributions to Canadian content development required under section 15(2) of the *Radio Regulations, 1986*, the licensee shall expend the total shortfall of \$1,333 in contributions to Canadian talent development identified in this decision and provide proof of payment to the Commission within 90 days of this decision.

19. L.A. Radio Group stated that it had paid this shortfall as directed as part of its contribution to Wolf Creek Public Schools, but only provided supporting documentation on 8 September 2015, almost two years past the 90-day deadline (i.e., 20 October 2013).

Length of licence term

20. The Commission's approach to non-compliance by radio stations is set out in Broadcasting Information Bulletin 2014-608. Under that approach, each instance of non-compliance is evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The circumstances, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.

21. Although all CCD shortfalls, including the payment to the CRFC, have been rectified, the Commission finds L.A. Radio Group in non-compliance with sections 15(2) and 15(5)(a) of the Regulations, and with condition of licence 5 set out in the appendix to Broadcasting Decision 2013-347. Given that these instances of non-compliance occurred during a short-term renewal period stemming from previous non-compliance for similar matters, and given the length of time that it took the licensee to provide supporting documentation as proof of payment of the required contributions, the Commission considers it appropriate to maintain the current licence expiry date of 31 August 2019 for CJUV-FM for the new broadcasting licence, rather than to grant a seven-year licence term.

Conclusion

22. In light of the above, the Commission **approves** the application by Golden West Broadcasting Ltd. for authority to acquire from L.A. Radio Group Inc. the assets of the English-language commercial radio programming undertaking CJUV-FM Lacombe, and for a broadcasting licence to continue the operation of the undertaking.
23. Upon surrender of the current licence issued to L.A. Radio Group Inc., the Commission will issue a new broadcasting licence to Golden West Broadcasting Ltd. expiring 31 August 2019. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

Related documents

- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014
- *CJUV-FM Lacombe – Licence renewal*, Broadcasting Decision CRTC 2013-347, 22 July 2013
- *Allocation of the transaction value in changes in the effective control of broadcasting undertakings* – Information bulletin, Broadcasting Public Notice CRTC 2008-57, 30 June 2008

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

Appendix to Broadcasting Decision CRTC 2015-570

Terms, conditions of licence and encouragement for the English-language commercial radio programming undertaking CJUV-FM Lacombe, Alberta

Terms

The licence will expire 31 August 2019.

Conditions of licence

1. The licensee shall adhere 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, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. The licensee shall refrain from soliciting local advertising in Red Deer, Alberta.
3. 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), the licensee shall devote to Canadian selections broadcast in their entirety:
 - a) at least 40% of its musical selections from content category 2 (Popular Music) in any broadcast week; and
 - b) at least 40% of its musical selections from content category 2 between 6 a.m. and 6 p.m. in the period from Monday to Friday of the same broadcast week.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meaning as set out in the Regulations.
4. If the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming.

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.