



Broadcasting Decision CRTC 2016-144

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Reference: 2015-470

Ottawa, 20 April 2016

Said Afrajy, on behalf of a not-for-profit corporation to be incorporated Mississauga, Ontario

Application 2015-0476-2, received 21 May 2015

Public hearing in the National Capital Region

17 December 2015

Low-power developmental community AM radio station in Mississauga

*The Commission **denies** an application for a broadcasting licence to operate a low-power developmental community AM radio station in Mississauga.*

Application

1. Said Afrajy, on behalf of a not-for-profit corporation to be incorporated, filed an application for a broadcasting licence to operate a low-power developmental community AM radio station in Mississauga. The station would operate at 1110 kHz with a daytime and nighttime transmitter power of 5 watts.
2. The proposed licensee, a corporation to be incorporated, would be solely owned and controlled by Mr. Afrajy.
3. The applicant stated that the station would broadcast 126 hours of local programming per broadcast week, all of which would be devoted to ethnic programming. The programming would feature multilingual news, art, music and events, with music programming to be drawn from a range of popular music and special interest music selections.
4. The applicant proposed to direct ethnic programming to at least six ethnic groups (Arabic, Egyptian, Moroccan, Lebanese, Kuwaiti and Tunisian) in at least three different languages (Arabic, French and English) each broadcast week by condition of licence. More specifically, the station would serve primarily the Arabic-speaking community in the Arabic language (71 hours per broadcast week). As such, it asked to be authorized to exceed the limit on third-language programming per broadcast week for non-ethnic stations set out in the *Radio Regulations, 1986* (the Regulations) in order to devote 57% of the broadcast week to such programming. It also proposed to broadcast programming in French (31 hours per broadcast week) and English (24 hours per broadcast week) by condition of licence.

5. With respect to community involvement and volunteer participation, the applicant indicated that there was already great interest in the station from potential volunteers, including several professionals willing to host programs on matters such as adult and youth counseling, immigration and community integration. It stated that a training manual would be provided for volunteers and that a senior producer would oversee the station's obligations. In addition, it committed to set up a community advisory committee that would meet at least twice a year in order to stay informed of community needs.
6. Finally, although developmental community stations are not required to do so, the applicant indicated that it would contribute \$109,000 to Canadian content development over seven consecutive broadcast years.
7. The Commission did not receive any interventions regarding this application.

Commission's analysis

8. Having examined the application in light of applicable policies and regulations, the Commission finds that the issues it must address are the following:
 - whether the ownership and governance structure of the proposed station would comply with the criteria set out in *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010 (the Policy); and
 - whether the applicant's proposal would meet the mandate for community stations set out in the Policy, including providing programming diversity, community reflection and volunteer and local talent development.

Ownership and governance structure of the proposed station

9. The Policy states that a developmental community radio programming undertaking is to be owned, operated, managed and controlled by a not-for-profit corporation whose structure provides for membership, management, operation and programming primarily by members of the community served.
10. In response to questions by Commission staff, the applicant indicated that the proposed licensee would be Said Afrajy, on behalf of a not-for-profit corporation to be incorporated, and confirmed that Mr. Afrajy would be its CEO and sole director. The applicant however submitted draft corporate bylaws that provide for such matters as the issuance of shares and the payment of dividends and make numerous references to the *Ontario Business Corporations Act*, which applies to corporations with share capital. Finally, the applicant stated that Mr. Afrajy would be in control by an initial agreement but failed to provide a copy of the agreement.
11. To determine whether an applicant meets the requirements set out in the Policy, one of the key means used by the Commission is to review the proposed not-for-profit corporation's constituting documents (by-laws, letters patent) and any other agreements that affect its governance (participation, decision-making and effective

control). In this regard, despite the applicant's assertions that it would comply with the requirements of the Policy, it has not provided the Commission with relevant information detailing how the proposed licensee would meet these requirements. Specifically, the applicant provided neither constituting documents congruent with a not-for-profit corporation to be registered in Ontario, nor any other agreements or information relating to the not-for-profit corporation's governance mechanisms, including its initial control agreement. Moreover, it failed to present a governance framework that would provide for membership, management, operation and programming primarily by members of the community served.

12. In light of the above, the Commission is of the view that the applicant did not demonstrate that the proposed licensee would meet the ownership and governance requirements set out in the Policy.

Applicant's proposal in relation to the mandate for community stations

13. As set out in the Policy, the Commission expects community radio stations to provide programming differing in style and substance from that provided by other elements of the broadcasting system, particularly commercial radio stations and the Canadian Broadcasting Corporation. Such programming should consist of music, especially Canadian music, not generally heard on commercial stations (including special interest music, as well as styles of popular music seldom broadcast), in-depth spoken word programming and programming targeted to specific groups within the community. In addition, the Policy states that local programming is to be produced in part by volunteers and that campus and community stations should offer programming based on the needs and interests of the community and should promote Canadian emerging talent, with an emphasis on local musical and spoken word talent.
14. The Commission considers that the applicant failed to demonstrate that it would provide the range of programming diversity, spoken word programming and community reflection contemplated by the Policy. Specifically, when asked to specify its plans for fostering diversity in the broadcast of opinions, spoken word content and musical programming, as well as volunteer participation and training, the applicant indicated that it had worked with the Arab community and had an extensive schedule and about 70 volunteers, but failed to provide any concrete measures as to how it would facilitate community access, promote the availability of training throughout the community or provide ongoing training and supervision for those within the community wishing to participate in broadcasting activities. Similarly, the applicant did not submit any information regarding local talent development, nor any concrete plans as to how it would promote and feature music by new Canadian artists, local artists and artists whose music is seldom heard on other stations.
15. In light of the above, the Commission considers that the applicant did not provide sufficient details to allow for a proper evaluation of its plans for volunteer participation and local talent development. It is therefore not convinced that the applicant understands the importance of these elements in relation to operating a community radio station.

16. More generally, community stations have a mandate to reflect the diversity of the communities they serve. Their purpose is not to target a single community (linguistic, ethnic or other), but rather to provide spoken word programming that reflects the perspectives and concerns of diverse cultural groups, including official language minority and third-language communities. In this respect, the Commission notes that the applicant is seeking to devote 57% of the broadcast week to third-language programming. Given that the Mississauga radio market is served by multiple ethnic radio stations, this would require an exception to section 7(4)(b) of the Regulations, which sets a 15% limit per broadcast week on the broadcast of third-language programs by AM or FM licensees of community or campus stations operating in markets where there is at least one ethnic station. The applicant provided no justification to support such an exception.
17. Moreover, the applicant also proposed to devote all of its programming to ethnic programming. Consequently, although the applicant confirmed that it would adhere to the remaining requirements generally applicable to developmental community radio stations, it appears to the Commission that the station would operate as a commercial ethnic radio station, operated primarily by volunteers, rather than as a developmental community radio station as defined in the Policy. The Commission therefore concludes that the applicant's proposal would not properly reflect the mandate of community stations set out in the Policy.
18. Based on the preceding, the Commission finds that the applicant has not provided a quality application nor demonstrated a clear understanding of the Policy or other key policies and regulations related to the operation of developmental community radio undertakings.

Conclusion

19. In light of all of the above, the Commission is not satisfied that the application is consistent with the provisions for developmental community radio stations set out in the Policy.
20. Accordingly, the Commission **denies** the application by Said Afrajy, on behalf of a not-for-profit corporation to be incorporated, for a broadcasting licence to operate a low-power developmental community AM radio programming undertaking in Mississauga.

Secretary General