



Broadcasting Decision CRTC 2017-258

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Reference: 2017-94

Ottawa, 20 July 2017

Blackgold Radio Inc.

Stony Plain/Spruce Grove and Ponoka, Alberta

Application 2016-1143-4, received 2 November 2016

Public hearing in the National Capital Region

15 June 2017

CKSS-FM Stony Plain/Spruce Grove and CKPA-FM Ponoka - Acquisition of assets (corporate reorganization)

*The Commission **approves** an application by Blackgold Radio Inc. for authority to acquire from Blackgold Broadcasting Inc., as part of a corporate reorganization, the assets of the English-language commercial radio station CKSS-FM Stony Plain/Spruce Grove, as well as the English-language commercial radio station CKPA-FM Ponoka, approved in Broadcasting Decision 2016-356.*

Application

1. Blackgold Radio Inc. (Blackgold Radio) filed an application for authority to acquire from Blackgold Broadcasting Inc. (Blackgold Broadcasting), as part of a corporate reorganization, the assets of the English-language commercial radio station CKSS-FM Stony Plain/Spruce Grove, as well as the English-language commercial radio station CKPA-FM Ponoka, approved in Broadcasting Decision 2016-356. CKPA-FM has not yet begun operations. The Commission did not receive any interventions regarding this application.
2. The applicant requested a new broadcasting licence to operate CKSS-FM under the same terms and condition of licence as those in effect under the current licence. Further, it requested a new broadcasting licence to operate CKPA-FM under the terms and conditions of licence specified in Broadcasting Decision 2016-356.
3. Blackgold Radio is a corporation owned by Mark S. Tamagi (57%) and Robin Curtis-Tamagi (43%), and effectively controlled by Mr. Tamagi.
4. The applicant stated that the acquisition of assets occurred on 1 September 2016.
5. Following completion of the transaction, Blackgold Radio would become the licensee of CKSS-FM and the authorized licensee of CKPA-FM.

Compliance issues

6. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that it must determine the length of the new licence term to be granted to CKSS-FM in light of the instance of apparent non-compliance.

Canadian content development

7. Blackgold Broadcasting was required to make an over-and-above contribution to Canadian content development (CCD) of \$1,875 for the 2014-2015 broadcast year. Based on its annual return for that broadcast year, the licensee did not make this contribution, thereby resulting in a \$1,875 shortfall.
8. Blackgold Broadcasting explained that there were issues with the accounting and system processes given that the station's facilities were still under construction. It also indicated that support staff is now in place and that it has hired a full-time office manager/bookkeeper. However, the licensee made an overpayment of \$2,000 to CCD in the 2015-2016 broadcast year.
9. Despite the licensee's explanation, the Commission notes that CKSS-FM's licence was awarded through a competitive process and that it was Blackgold Broadcasting that proposed to adhere to a condition of licence requiring annual over-and-above CCD contributions. Accordingly, the Commission finds Blackgold Broadcasting in non-compliance with its condition of licence regarding CCD contributions for the 2014-2015 broadcast year.

Length of licence term

10. 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 leading to the non-compliance, the arguments provided by the licensee, and the actions taken to rectify the situation are also considered.
11. Given that the licensee has made up the shortfall and has put measures into place to ensure the station's compliance in the future, and since this is the first time that the station has been found in non-compliance, the Commission finds it appropriate to grant CKSS-FM a new broadcasting licence for a short-term period of six years.

Conclusion

12. In light of all of the above, the Commission **approves** the application by Blackgold Radio Inc. for authority to acquire from Blackgold Broadcasting Inc., as part of a corporate reorganization, the assets of the English-language commercial radio programming undertaking CKSS-FM Stony Plain/Spruce Grove, as well as the English-language commercial radio programming undertaking CKPA-FM Ponoka, approved in Broadcasting Decision 2016-356.

13. The effective control of the stations will continue to be exercised by Mark S. Tamagi.
14. Upon surrender of the current licence issued to Blackgold Broadcasting for CKSS-FM Stony Plain/Spruce Grove, the Commission will issue a new broadcasting licence to Blackgold Radio under the terms and **conditions of licence** set out in Appendix 1 to this decision.
15. With respect to CKPA-FM Ponoka, the Commission will only issue a licence for the undertaking once the applicant has satisfied the Commission that it has met the requirements set out in Appendix 2 to this decision.
16. The Commission also **directs** Blackgold Radio to file an executed copy of its Shareholders' Agreement by no later than **21 August 2017**.

Reminders

17. As set out in Broadcasting Decision 2014-475, the licensee is required to make an annual over-and-above contribution of \$7,500 to CCD, of which 20% must be devoted to FACTOR or MUSICACTION. According to Commission records, the licensee contributed \$4,000 of the required \$7,500 to CCD for the 2016-2017 broadcast year, and none of this amount was devoted to FACTOR or MUSICACTION. As such, the Commission reminds Blackgold Radio that it must contribute, by 31 August 2017, the remaining \$3,500 to CCD, with \$1,500 being devoted to FACTOR or MUSICACTION.
18. Further, the Commission reminds Blackgold Radio that a transaction resulting in the transfer of assets requires prior approval from the Commission.

Secretary General

Related documents

- *English-language FM radio station in Ponoka*, Broadcasting Decision CRTC 2016-356, 2 September 2016
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Licensing of a new radio station to serve Spruce Grove and Stony Plain*, Broadcasting Decision CRTC 2014-475, 15 September 2014

This decision is to be appended to each licence.

Appendix 1 to Broadcasting Decision CRTC 2017-258

Terms, conditions of licence, expectation and encouragement for the English-language commercial radio programming undertaking CKSS-FM Spruce Grove/Stony Plain

Terms

The licence will expire 31 August 2022.

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 licence for the undertaking.
2. 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), and subject to section 2.2(6) of these Regulations, the licensee shall devote at least 40% of its musical selections from content category 2 (Popular Music) in each broadcast week and between 6 a.m. and 6 p.m. from Monday to Friday to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the meanings set out in the Regulations.

3. The licensee shall not solicit advertising material from the Edmonton market.
4. In addition to the basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, the licensee shall make an annual contribution of \$7,500 (\$52,500 over seven consecutive broadcast years) to the promotion and development of Canadian content. Of this amount, 20% per broadcast year shall be devoted to FACTOR or MUSICACTION. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Expectation

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

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.

Appendix 2 to Broadcasting Decision CRTC 2017-258

Terms, conditions of licence, expectation and encouragement for the English-language commercial radio programming undertaking CKPA-FM Ponoka

Terms

The licence will expire 31 August 2023.

The station will operate at 89.7 MHz (channel 209A) with an effective radiated power of 1,000 watts (non-directional antenna with an effective height of antenna above average terrain of 111 metres).

Pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before **2 September 2018**. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

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2. 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 at least 40% of its musical selections from content category 2 (Popular Music) in each broadcast week and between 6 a.m. and 6 p.m. from Monday to Friday to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the meanings set out in the Regulations.

3. In addition to the basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, the licensee shall, upon commencement of operations, make an annual contribution of \$5,000 (\$35,000 over seven consecutive broadcast years) to the promotion and development of Canadian content. Of this amount, at least 20% per broadcast year shall be devoted to

FACTOR or MUSICACTION. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

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