



Broadcasting Decision CRTC 2018-280

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Reference: 2018-154

Ottawa, 10 August 2018

United Christian Broadcasters Media Canada
Fort McMurray, Alberta

Public record for application: 2018-0070-7
Public hearing in the National Capital Region
12 July 2018

CKOS-FM Fort McMurray – Acquisition of assets

*The Commission **approves** an application by United Christian Broadcasters Media Canada for authority to acquire from King’s Kids Promotions Outreach Ministries Incorporated the assets of the English-language commercial specialty (Christian music) radio station CKOS-FM Fort McMurray and for a new broadcasting licence to continue the operation of the station, which will expire 31 August 2023.*

Application

1. United Christian Broadcasters Media Canada (UCB) filed an application for authority to acquire from King’s Kids Promotions Outreach Ministries Incorporated (King’s Kids) the assets of the English-language commercial specialty (Christian music) radio station CKOS-FM Fort McMurray, Alberta. The applicant also requested a new broadcasting licence to operate CKOS-FM under the same terms and conditions of licence as those in effect under the current licence. The Commission did not receive any interventions regarding this application.
2. UCB is a not-for-profit corporation controlled by its board of directors.
3. Pursuant to the letter of intent, UCB would purchase the assets of the station in exchange for the assumption of a debt owed by King’s Kids valued at \$108,962.
4. Following the closing of the transaction, UCB would become the licensee of CKOS-FM.
5. In Broadcasting Notice of Consultation 2018-154, the Commission noted that the current licensee, King’s Kids, is in apparent non-compliance with sections 8(1), 8(2) and 9(3)(b) of the *Radio Regulations, 1986* (the Regulations), relating to the filing of complete and accurate program logs and music lists for the broadcast week of 27 November to 3 December 2016.

Regulatory framework

6. 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 of the transaction are commensurate with the size and nature of the transaction, and that the application represents the best possible proposal under the circumstances.
7. The Commission must consider each application on its merits, 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.

Issues

8. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:
 - whether the proposed transaction would be in the public interest;
 - the request for an exception to the requirement to pay tangible benefits; and
 - the length of the new licence term to be granted to CKOS-FM in light of the current licensee's apparent non-compliance.

Public interest

9. UCB is an experienced broadcaster that operates four English-language stations in Ontario with formats similar to CKOS-FM. The station would benefit from economies of scale by sharing various expenses with other UCB stations. Approval of the application would therefore have a positive impact on CKOS-FM's viability, thereby preserving the diversity of voices in the Fort McMurray market. Further, the economies of scale resulting from CKOS-FM's ability to share expenses with other UCB stations would also increase resources available to devote to programming.
10. Accordingly, the Commission finds that approving the application would be in the public interest.

Tangible benefits

11. As set out in Broadcasting Regulatory Policy 2014-459 (the Tangible Benefits Policy), the Commission generally requires the payment of tangible benefits when there is a change in the effective control of a radio programming undertaking. However, in the Tangible Benefits Policy, the Commission stated that there may be cases where the public interest can be fully met without tangible benefits if the following criteria are met:

- the undertaking to be acquired is not in its first licence term;
 - the undertaking has suffered significant financial losses over an extended period of time (that is, for at least five consecutive years following the first licence term);
 - the purchaser demonstrates that there is a public interest either for the broadcasting system as a whole or the community served in maintaining the failing undertaking.
12. CKOS-FM is currently in the fifth year of its second licence term and has reported significant losses in each of the four years of its second licence term. The Commission considers that significant improvement to the station's financial performance under the current ownership is unlikely to occur during the 2017-2018 broadcast year. Further, CKOS-FM's financial situation was negatively affected by several factors, including the economic downturn in the oil sands industry, the 2016 Fort McMurray wildfire, and the fact that CKOS-FM had to replace a newly acquired transmitter.
13. Accordingly, in these exceptional circumstances, the Commission finds that CKOS-FM has suffered significant financial losses over an extended period of time.
14. Finally, approval of the application would have a positive impact on CKOS-FM's viability, thereby preserving the diversity of voices in the Fort McMurray market. Considering the fact that the Fort McMurray market has yet to recover from the 2016 wildfire and the limited commercial potential of CKOS-FM as a specialty (Christian music) FM radio station, imposing tangible benefits could have an adverse effect on UCB's efforts to stabilize the station's financial situation and increase the level of local and Canadian programming.
15. In light of the above, the Commission considers that an exception to the requirement to pay tangible benefits is in the public interest.

Length of the licence term

16. Sections 8(1) and 8(2) of the Regulations set out the Commission's requirements with respect to the content of program logs, and section 9(3)(b) sets out requirements related to the content of music lists.
17. In Broadcasting Notice of Consultation 2018-154, the Commission noted that the current licensee, King's Kids, was in apparent non-compliance with the above-noted requirements for the broadcast week of 27 November to 3 December 2016. More specifically, King's Kids did not include a program log with the submission of monitoring materials for that week, as requested, and the music list did not identify Canadian musical selections and selections drawn from content category 3 (Special Interest Music).
18. King's Kids stated that this had been its first time filing a program evaluation so it had no previous reference to ensure that the materials it had furnished were correct. It stated that it had filed what it had thought was a program log. With respect to music lists, it noted

that almost all songs it played fall into content category 3 and it would henceforth ensure that all songs are clearly categorized.

19. UCB stated that, should its application to acquire CKOS-FM be approved, it would apply its own processes to logs and music lists and ensure that all shortcomings are highlighted and addressed.
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 leading to the non-compliance, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
21. In this case, King's Kids did not dispute the non-compliance. The Commission notes that this is the second consecutive licence term in which CKOS-FM has been found in non-compliance. However, the Commission is satisfied that UCB, as an experienced broadcaster, is capable of implementing measures to deal with the non-compliance.
22. In light of above, the Commission finds the current licensee in non-compliance with sections 8(1), 8(2) and 9(3)(b) of the Regulations for the broadcast week of 27 November to 3 December 2016. In light of the severity and the recurring nature of the non-compliance, the Commission will issue a new licence to UCB that will expire 31 August 2023. This short-term renewal will allow for an earlier review of the new licensee's compliance with regulatory requirements.

Conclusion

23. In light of all of the above, the Commission **approves** the application by United Christian Broadcasters Media Canada for authority to acquire from King's Kids Promotions Outreach Ministries Incorporated the assets of the English-language commercial specialty (Christian music) radio programming undertaking CKOS-FM Fort McMurray, Alberta.
24. Upon surrender of the current licence issued to King's Kids, the Commission will issue a new broadcasting licence to UCB expiring 31 August 2023. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminder

25. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. The submission of complete and accurate radio monitoring materials enables the Commission to conduct an analysis of a station's programming to verify compliance with regulatory obligations. The retention of these radio monitoring materials makes it possible for the Commission to investigate a station's programming in the case of complaints. As such, any licensee that does not file requested material in a timely manner, or does not file such material at all, affects the ability of the Commission to adequately perform its duty to independently confirm the licensee's adherence to regulatory and licence requirements. These filings also become important indicators of

whether the licensee has the willingness, ability and knowledge necessary to bring itself into compliance and maintain such compliance.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2018-154, 8 May 2018
- *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
- *CKOS-FM Fort McMurray – Licence renewal*, Broadcasting Decision CRTC 2013-664, 10 December 2013

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2018-280

Terms, conditions of licence and encouragement for the English-language commercial specialty (Christian music) radio programming undertaking CKOS-FM Fort McMurray, Alberta

Terms

The licence will expire 31 August 2023.

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, with the exception of condition of licence 7.
2. The licensee shall operate the station within the Specialty format as defined in *A Review of Certain Matters Concerning Radio*, Public Notice 1995-60, 21 April 1995, and *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. The licensee shall ensure that at least 90% of all musical selections broadcast each broadcast week are drawn from subcategory 35 (Non-classic religious), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
4. As an exception to the percentage of Canadian musical selections set out in section 2.2(3) of the *Radio Regulations, 1986*, the licensee shall devote at least 15% of all content category 3 (Special Interest Music) musical selections broadcast each broadcast week to Canadian selections and schedule them in a reasonable manner throughout each broadcast week.

For the purposes of this condition, “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as set out in the *Radio Regulations, 1986*.

5. Where 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.