



Broadcasting Decision CRTC 2018-286

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Reference: 2018-154

Ottawa, 16 August 2018

Eternacom Inc., on behalf of Harvest Ministries Sudbury
Elliot Lake, North Bay and Sudbury, Ontario

Public record for this application: 2017-0878-6
Public hearing in the National Capital Region
12 July 2018

CJTK-FM Sudbury, CJTK-FM-1 North Bay, CJTK-FM-3 Elliot Lake and their transmitters – Acquisition of assets

*The Commission **approves** an application by Eternacom Inc. (Eternacom), on behalf of Harvest Ministries Sudbury, for authority to acquire from Eternacom the assets of the English-language commercial specialty (Christian music) radio stations CJTK-FM Sudbury, CJTK FM-1 North Bay and CJTK-FM-3 Elliot Lake, Ontario, and their rebroadcasting transmitters and for broadcasting licences to continue the operation of the stations.*

Application

1. Eternacom Inc. (Eternacom), on behalf of Harvest Ministries Sudbury (Harvest), filed an application for authority to acquire from Eternacom the assets of the English-language commercial specialty (Christian music) radio stations CJTK-FM Sudbury, CJTK-FM-1 North Bay and CJTK-FM-3 Elliot Lake, Ontario, and their rebroadcasting transmitters and for broadcasting licences to continue the operation of the undertakings under the same terms and conditions as those in effect under the current licences. The Commission did not receive any interventions in connection with this application.
2. Harvest is a not-for-profit corporation controlled by its board of directors.
3. As a result of the transaction, Harvest would become the stations' licensee.

Background

4. The purpose of the transaction is to remedy a situation where the purchaser, Harvest, holds the majority of the assets needed to operate the stations, including the transmitters, for which the seller, Eternacom, holds the licences. As a result, Eternacom is in violation of section 10.1 of the *Radio Regulations, 1986*, which provides that the licensee must be the owner and operator of its transmitter. The non-compliance would be rectified upon issuance of new licences to the purchaser, who is already the owner and operator of the transmitters.

5. The applicant has explained that, at the time of incorporation, it believed a charitable organization could not hold a broadcasting licence. Eternacom stated that it is prepared to take the necessary steps to correct the situation.

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.

Commission's analysis and decision

8. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
 - the impact on the broadcasting system; and
 - the value of the transaction and tangible benefits.

Impact on the broadcasting system

9. This transaction would rectify the non-compliance with respect to the ownership and operation of transmitters by a radio licence holder. It would also enable the continued operation of the stations should the current owner and shareholder no longer be able to look after the affairs of his business. The stations' audiences would continue to receive the same quality programming.
10. In light of the above, the Commission considers that the transaction is in the public interest.

Value of the transaction and tangible benefits

11. Because the Commission does not solicit competing applications for authority to transfer the ownership or control of radio, television and other programming undertakings, the onus is on the applicant to demonstrate that the benefits proposed in the application are commensurate with the size and nature of the transaction.
12. Pursuant to Broadcasting Regulatory Policy 2014-459 (the Tangible Benefits Policy), for commercial radio stations, tangible benefits must generally represent at least 6% of the

value of the transaction, to be allocated to the Radio Starmaker Fund or Fonds Radiostar (3%), FACTOR or MUSICACTION (1.5%), any eligible Canadian content development (CCD) initiative at the discretion of the purchaser (1%) and the Community Radio Fund of Canada (0.5%). The value of a transaction includes the purchase price, assumed long-term debts and assumed leases for real property (buildings, studios, offices and transmission facilities) calculated over a period of five years.

13. The applicant established the value of the transaction at \$1, that is, the purchase price.
14. The applicant has indicated that Curtis Belcher, the sole shareholder of Eternacom, would be hired as general manager. The Commission's practice is to include the value of the employment contract granted to the seller to the value of the transaction. However, the applicant has indicated that Harvest's board of directors has not yet established the conditions of employment. In the absence of a contract, the Commission has estimated the value of the employment contract over a period of three years to be \$183,000. This estimated value is based on a comparison of salaries for that type of position at religious radio stations.
15. Finally, the purchaser will assume the debt valued at \$14,890.
16. Accordingly, the value of the transaction amounts to \$197,891.

Value of the transaction	
Purchase price	\$1
Additions:	
Assumed debt	\$14,890
Employment contract	\$183,000
Value of the transaction	\$197,891

17. The applicant did not propose a tangible benefits package. However, it did accept to pay tangible benefits should the Commission deem it appropriate.
18. Based on the revised value of the transaction and consistent with the Tangible Benefits Policy, the Commission **directs** Harvest to pay tangible benefits amounting to \$11,873, to be allocated as follows in equal payments over seven consecutive broadcast years:
 - 3% (\$5,937) to the Radio Starmaker Fund or Fonds Radiostar;
 - 1.5% (\$2,968) to FACTOR;
 - 1% (\$1,979) to any eligible CCD initiative at the discretion of the purchaser; and

- 0.5% (\$989) to the Community Radio Fund of Canada.

19. The CCD initiatives must fulfill the definition of eligible initiatives set out in paragraph 108 of Broadcasting Public Notice 2006-158.

Conclusion

20. In light of all of the above, the Commission **approves** the application by Eternacom Inc., on behalf of Harvest Ministries Sudbury, for authority to acquire from Eternacom Inc. the assets of the English-language commercial specialty (Christian music) radio programming undertakings CJTK-FM Sudbury, CJTK-FM-1 North Bay and CJTK-FM-3 Elliot Lake and their rebroadcasting transmitters.
21. Upon surrender of the current licences issued to Eternacom, the Commission will issue new broadcasting licences to Harvest, which will expire 31 August 2021. The terms and **conditions of licence** for the stations are set out in the appendices to this decision.
22. The Commission reminds Harvest that it must be the owner and operator of its transmitters.
23. Pursuant to section 22 of the Act, the broadcasting licences renewed in this decision will cease to have any force or effect should the broadcasting certificates issued by the Department of Industry lapse.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2018-154, 8 May 2018
- *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

This decision is to be appended to each licence.

Appendix 1 to Broadcasting Decision CRTC 2018-286

Terms, conditions of licence and encouragement for the English-language commercial specialty (Christian music) radio station CJTK-FM Sudbury and its transmitters CJTK-FM-2 Little Current, CJTK-FM-5 Timmins as well as its transmitters in Iroquois Falls, Sault Ste. Marie, Englehart, New Liskeard, Sundridge and Spring Bay, Ontario

Terms

The licence will expire 31 August 2021.

Conditions of licence

1. The licensee shall adhere to the conditions set out in the broadcasting licence for the undertaking as well as 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 7.
2. The licensee shall operate the station within the specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. As an exception to the percentage of Canadian musical selections set out in section 2.2(3) of the *Radio Regulations, 1986* (the Regulations), the licensee shall, in each broadcast week, devote at least 20% of its musical selections from category 3 to Canadian musical selections.

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

4. The licensee shall broadcast no more than four minutes of advertising in any clock hour.

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 2018-286

Terms, conditions of licence and encouragement for the English-language commercial specialty (Christian music) radio station CJTK-FM-1 North Bay and its transmitter CJTK-FM-4 Mattawa, Ontario

Terms

The licence will expire 31 August 2021.

Conditions of licence

1. The licensee shall adhere to the conditions set out in the broadcasting licence for the undertaking as well as 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 7.
2. The licensee shall operate the station within the specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. The licensee shall devote a minimum of 95% of all musical selections aired in each broadcast week to musical selections 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 Regulations), the licensee shall, in each broadcast week, devote at least 20% of its musical selections from category 3 to Canadian musical selections.

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

5. The licensee shall broadcast no more than four minutes of advertising in any clock hour.
6. 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.

Appendix 3 to Broadcasting Decision CRTC 2018-286

Terms, conditions of licence and encouragement for the English-language commercial specialty (Christian music) radio station CJTK-FM-3 Elliot Lake, Ontario

Terms

The licence will expire 31 August 2021.

Conditions of licence

1. The licensee shall adhere to the conditions set out in the broadcasting licence for the undertaking as well as 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 7.
2. The licensee shall operate the station within the specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. The licensee shall devote a minimum of 90% of all musical selections broadcast during each broadcast week to selections drawn from subcategory 35 (Non-classic religious).
4. 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.