



## Broadcasting Decision CRTC 2019-103

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Reference: Part 1 application posted on 31 July 2018

Ottawa, 4 April 2019

**Four Senses Entertainment Inc.**  
Whistler and Squamish, British Columbia

*Public record for this application: 2018-0554-0*

### **CKEE-FM Whistler – New transmitter in Squamish**

*The Commission **denies** an application by Four Senses Entertainment Inc. to amend the broadcasting licence for the English-language commercial radio station CKEE-FM Whistler, British Columbia, in order to operate a transmitter in Squamish.*

#### **Application**

1. Four Senses Entertainment Inc. (Four Senses) filed an application to amend the broadcasting licence for the English-language commercial radio station CKEE-FM Whistler, British Columbia, in order to operate a transmitter in Squamish.
2. The proposed transmitter would operate at 99.5 MHz with an average effective radiated power (ERP) of 2,449 watts (maximum ERP of 5,000 watts with an effective height of the antenna above average terrain of -389.5 metres).
3. The licensee indicated that it had filed the application on the basis of a technical and economic need. The licensee stated that the addition of a transmitter would address a technical deficiency in CKEE-FM's coverage area, given that by omitting terrestrial coverage for the community of Squamish in its original licensing application, coverage is half of what it should have been. The licensee was also concerned that the station is not viable due to the current authorized contours, which have limited its ability to garner local advertising revenues.

#### **Background**

4. In Broadcasting Decision 2009-102, the Commission approved an application by Four Senses for a broadcasting licence to operate an English-language commercial FM radio station in Whistler. In that decision, the Commission considered that Four Senses' station would add local programming diversity to the market through the introduction of a new voice and the broadcasting of 49 hours of local programming. It further stated that the station would serve to repatriate out-of-market tuning to Vancouver stations whose signals are available through local transmitters.

## **Intervention and reply**

5. The Commission received one intervention in opposition from Rogers Media Inc. (Rogers), licensee of CISQ-FM Squamish and CISW-FM Whistler and its transmitter CISP-FM Pemberton (collectively known as Mountain FM). The applicant replied to the intervention.
6. Rogers submitted that Four Senses did not provide evidence to support its claim of a technical deficiency. Rogers further argued that Four Senses is looking to expand its coverage and that this is an attempt to undermine the licensing process by gaining “back-door” entry into the Squamish market.
7. Rogers submitted that it had intervened in the original licensing process to argue that Four Senses’ stand-alone station would not be viable without serving both Squamish and Whistler. Rogers argued that Whistler and Squamish are not one market and should not be treated and served as one. It further submitted that Four Senses has not made any new commitments to local programming in Squamish. Lastly, Rogers submitted that approval would have a direct undue financial impact on Mountain FM.
8. In its reply, Four Senses stated that CKEE-FM is operating at a loss without any hope of improvement outside the approval of its application. Four Senses argued that CKEE-FM’s terrestrial coverage is half of what it should have been.
9. Four Senses stated that the financial impact of the application on incumbent stations would be lessened by the ongoing vitality and strong economic growth within the community as a whole.
10. Four Senses stated that if the application were approved, it would increase its programming budget by 50% in years 1 and 2 and by 54% in year 3. It would also have a studio in Squamish and would commit to doing so as a condition of licence.

## **Commission’s analysis and decisions**

11. When a licensee files an application for a technical amendment, including the addition of a transmitter, the Commission generally expects the licensee to present compelling technical or economic evidence to justify the proposed amendment.
12. 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:
  - Has the applicant demonstrated a compelling technical need to justify the amendment?
  - Has the licensee demonstrated a compelling economic need to justify the proposed technical amendment?
  - Would approval of the application undermine the integrity of the Commission’s licensing process?

### **Technical need**

13. In its application, Four Senses stated that when it originally applied for a licence to operate CKEE-FM Whistler, it should have included Squamish in the coverage of CKEE-FM. It would like to correct this omission by adding a rebroadcasting transmitter in Squamish.
14. The Commission considers that the omission does not constitute a technical need and cannot be used to justify the technical amendment. Accordingly, the Commission finds that the applicant has not demonstrated a compelling technical need to justify the proposed amendment.

### **Economic need**

15. The applicant argued that the proposed technical amendment is necessary for the financial viability of the station. The applicant stated that a lack of coverage of Squamish has had a negative impact on the financial situation of its station. Further, the applicant cited competition from Rogers, who operates CISQ-FM Squamish and the Mountain FM network, as having a negative impact on the financial situation of the station. The applicant argued that there is a competitive imbalance in the region, given Rogers' reach and ability to offer more competitive advertising rates.
16. In this respect, the Commission acknowledges that the current financial situation of the station may not be sustainable. Further, there may be a competitive imbalance in the region given that the reach of Rogers' network may make it more appealing to potential advertisers.
17. In light of the above, the Commission considers that the applicant has demonstrated a compelling economic need.

### **Integrity of the Commission's licensing process**

18. Generally, the Commission will consider authorizing the addition of a transmitter to rebroadcast the programming of an originating station to correct clearly defined technical deficiencies in the signal of the originating station within its authorized contours or to address a demonstrated economic need.
19. As the Commission determined above, in this case, Four Senses has not demonstrated a technical need for the addition of a rebroadcasting transmitter. Rather, the applicant is seeking to serve an additional community that was not identified in its original licensing application.
20. The applicant cited financial difficulties and indicated that the primary reason for its application is to solicit advertising in Squamish, as it is concerned that CKEE-FM will not be viable without those additional advertising revenues. In this regard, commercial FM radio stations are subject to a condition of licence that prevents them from soliciting or accepting local advertising for broadcast during any broadcast week when less than one third of the programming aired is local. Given that Four Senses' proposal is to add a

new transmitter rather than a new local station with local programming in the Squamish market, a market that is separate from the Whistler market, it would be prohibited from soliciting or accepting local advertising in Squamish. This would, therefore, be counter to the purpose of the application, which was to solicit local advertising in Squamish.

21. The Commission acknowledges the financial difficulties that CKEE-FM is experiencing; however, it considers that the application as proposed seeks to introduce a new radio service to the Squamish market. The introduction of any new local radio service is subject to the standard Commission process, set out in Broadcasting Regulatory Policy 2014-554, which ensures that new radio services are introduced in a transparent and efficient manner.
22. If Four Senses wishes to solicit advertising in Squamish, it should file an application for a new radio station in Squamish, which will be considered on its own merits.
23. In light of the above, the Commission finds that approval of the current application would serve to introduce a new radio service in Squamish without undergoing the standard call for applications process set out in Broadcasting Regulatory Policy 2014-554. The Commission therefore considers that approval of the application would compromise the integrity of the licensing process.

## **Conclusion**

24. In light of all the above, the Commission **denies** the application by Four Senses Entertainment Inc. to amend the broadcasting licence for the radio programming undertaking CKEE-FM Whistler in order to operate a transmitter in Squamish.

Secretary General

## **Related documents**

- *A targeted policy review of the commercial radio sector, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014*
- *English-language FM radio station in Whistler, Broadcasting Decision CRTC 2009-102, 2 March 2009*