



Broadcasting Decision CRTC 2021-153

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Reference: 2020-344

Ottawa, 3 May 2021

Maritime Broadcasting System Limited
Digby, Nova Scotia

Public record for this application: 2020-0175-9
Public hearing in the National Capital Region
3 December 2020

CKDY Digby – Conversion to the FM band

The Commission **approves** an application by Maritime Broadcasting System Limited for a broadcasting licence to operate an English-language commercial FM radio station in Digby to replace its English-language commercial AM radio station CKDY Digby.

Background

1. On 26 March 2020, the Commission approved an application by Maritime Broadcasting System Limited (MBS) to amend the broadcasting licence for CKDY Digby, Nova Scotia, in order to add a temporary low-power FM rebroadcasting transmitter in Digby. MBS indicated that the station's transmitter site had been destroyed due to vandalism and specified that as the only radio station in the community, it was essential for CKDY to be back on air as soon as possible. The applicant submitted that a temporary low-power FM transmitter would be the quickest interim solution to ensure that the station would remain on-air, while full conversion to the FM band would represent the most cost-effective long-term solution.

Application

2. In order to complete the full conversion to the FM band, MBS filed an application for a broadcasting licence to operate an English-language FM commercial radio station in Digby, Nova Scotia, to replace its English-language commercial AM radio station CKDY Digby.
3. The station would operate at 99.7 MHz (channel 259B1) with an average effective radiated power (ERP) of 2,390 watts (directional antenna with a maximum ERP of 6,530 watts and an effective height of the antenna above average terrain (EHAAT) of 165.7 metres).

4. CKDY has an existing FM rebroadcasting transmitter in Weymouth, CKDY-1-FM. The applicant would continue to operate this rebroadcasting transmitter at 103.3 MHz (channel 277A) with an average ERP of 3,000 watts (non-directional antenna with an EHAAT of 64.0 metres).
5. Robert L. Pace owns MBS through holding companies, 4284445 Canada Inc. and Green Radio Limited, and exercises effective control of MBS. Robert L. Pace is a Canadian residing in Canada; therefore, MBS is eligible to hold a broadcasting licence pursuant to the *Direction to the CRTC (Ineligibility of Non-Canadians)*.
6. The applicant indicated that it intends to keep CKDY's existing AM programming and proposed to continue with its country music format targeting adults in the 18-54 age group. MBS would broadcast 126 hours of programming per broadcast week, of which a minimum of 42 hours would be devoted to local programming. It also proposed to broadcast syndicated wrap-around programming.
7. MBS added that the station would provide local news and information, support not-for-profit organizations and provide coverage of local community events in the Digby area.
8. Given that the new FM station would be the only local commercial station in the single station market of Digby, the applicant would not be required to devote at least one-third of its programming to local programming in order to accept or solicit local advertising, as set out in Broadcasting Regulatory Policy 2009-62.

Commission's analysis and decision

9. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue broadcasting licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
10. When evaluating an application for a new commercial station, the Commission generally considers, among other things, the quality of the business plan, including the proposed format, plans for local programming and other matters related to the operation of the proposed station.
11. The Commission considers that the onus is on the applicant to provide a quality application and to demonstrate an understanding of the regulatory requirements associated with operating a radio programming undertaking. The Commission also expects the applicant to provide sufficient details in support of its application to allow for a thorough analysis of that application.

12. Having examined the public record for this application in light of applicable policies and regulations, the Commission considers that it must address the following issues:

- the proposed frequency;
- the impact on incumbent stations in the market;
- the station's programming; and
- Canadian content development contributions.

Proposed frequency

13. The applicant proposed to operate the station at 99.7 MHz (channel 259B1). Multiple frequencies that provide similar or greater coverage to that proposed by the applicant are available in the Digby area. Consequently, 99.7 MHz is not the last frequency available to serve Digby.

14. The Commission notes that the use of the proposed frequency would remove its availability from the surrounding areas. However, other frequencies are available to provide service to those areas and no other major surrounding markets would be impacted.

15. In light of the above, the Commission finds that the use of 99.7 MHz would have a minimal impact on the availability of frequencies in Digby and the surrounding areas.

Impact on incumbent stations in the market

16. CKDY is the only commercial radio station serving the Digby market. The market is also served by the Canadian Broadcasting Corporation's English- and French-language radio stations. The Commission notes that no opposing interventions were received regarding this application.

17. In light of the above, the Commission finds that approval of this application would not have an undue impact on incumbent stations in the market.

Programming

18. In Broadcasting Public Notice 2008-4, the Commission indicated that the Canadian broadcasting system should ensure that audiences have access to a diversity of programming, especially local, regional and national content.

19. The applicant proposed to broadcast 1 hour and 10 minutes of news each week, of which 60 minutes would be devoted to local and regional news, 5 minutes to national news and 5 minutes to international news.

20. Although Broadcasting Public Notice 2006-158 does not specify a minimum level of weekly news to be broadcast, it does specify the type of spoken word material that must be included as part of a station's local programming. In accordance with that

public notice, the Commission reminds MBS that the station, in its local programming, must incorporate spoken word material of direct and particular relevance to the community of Digby, and that this programming must include local news, weather, sports coverage, and the promotion of local events and activities. In addition, the Commission encourages MBS to make available to this community a reasonable amount of daily local programming, which includes daily local news and information, in order to ensure that the station provides a satisfactory level of local service.

21. In light of the above, the Commission considers that the station would continue to add to local reflection and programming diversity in the Digby market.

Canadian content development

22. Sections 3(1)(e) and 3(1)(s)(i) of the Act declare that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming and that private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming.
23. While the applicant did not propose any discretionary over-and-above Canadian content development (CCD) contributions, it indicated that it would continue its Canadian Talent Initiative. This is a long-running campaign that the applicant promotes on-air and online to encourage recording artists to submit their original music, biographical information and details on where their music can be purchased. MBS offers \$500 of free advertising on its radio station to provide exposure to the artists.
24. The Commission notes that MBS must still abide by the basic CCD contribution requirements, as set out in section 15(2) of the *Radio Regulations, 1986*.

Conclusion

25. In light of all of the above, the Commission **approves** the application by Maritime Broadcasting System Limited for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Digby, Nova Scotia. The terms and **conditions of licence** are set out in the appendix to this decision.

Employment equity

26. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Employment and Social Development, its employment equity practices are not examined by the Commission.

Simulcast period and revocation of AM licence

27. As set out in the appendix to this decision, MBS is authorized to simulcast the programming of the new FM station on CKDY for a transition period of three months following the commencement of operations of the FM station. Pursuant to sections 9(1)(e) and 24(1) of the Act and consistent with the licensee's request, the Commission **revokes** the licence for CKDY Digby effective at the end of the simulcast period.

Secretary General

Related documents

- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Diversity of voices – Regulatory policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Commercial Radio Policy 2006*, Broadcasting Regulatory Policy CRTC 2006-158, 15 December 2006

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2021-153

Terms, conditions of licence, expectation and encouragement for the English-language commercial FM radio programming undertaking in Digby, Nova Scotia, and its transmitter CKDY-1-FM Weymouth

Terms

The licence will expire 31 August 2027.

The station will operate at 99.7 MHz (channel 259B1) with an average effective radiated power (ERP) of 2,390 watts (directional antenna with a maximum ERP of 6,530 watts with an effective height of antenna above average terrain (EHAAT) of 165.7 metres).

The CKDY-1-FM Weymouth transmitter will operate at 103.3MHz (channel 277A) with an average with an ERP of 3,000 watts (non-directional antenna with an EHAAT of 64.0 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 only 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 **3 May 2023**. To request an extension, the licensee must submit a written request to the Commission at least 60 days before that date, using the form available on the Commission's website.

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 8, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. The licensee is authorized to simulcast the programming of the new commercial FM station on CKDY Digby for a transition period of three months following the commencement of operations of the FM station.

Expectation

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

Encouragement

The Commission encourages the licensee to ensure that a reasonable amount of daily local news and information is made available to the Digby community.