



Broadcasting Decision CRTC 2007-233

Ottawa, 16 July 2007

CJNE FM Radio Inc.

Nipawin and Tisdale, Saskatchewan

Application 2007-0076-7, received 18 January 2007

Broadcasting Public Notice CRTC 2007-28

21 March 2007

CJNE-FM Nipawin – New transmitter at Tisdale

*The Commission **denies** an application to amend the broadcasting licence for CJNE-FM Nipawin, in order to operate a transmitter at Tisdale.*

The application

1. The Commission received an application from CJNE FM Radio Inc. (CJNE) to amend the broadcasting licence for the English-language, commercial radio programming undertaking CJNE-FM Nipawin, in order to operate a transmitter at Tisdale that would operate at 95.7 MHz (channel 239LP) with an effective radiated power of 45 watts.
2. The licensee indicated that it wished to strengthen its signal in Tisdale and the surrounding area. CJNE stated that many Tisdale residents and businesses have expressed disappointment at being unable to receive CJNE-FM clearly.
3. The Commission considers that the issues to be dealt with in consideration of this application are the licensee's apparent non-compliance with regulatory requirements, and the potential impact that approval of this application would have on the Tisdale radio market.

Complaint

4. On 24 January 2007, the Commission received a complaint by Radio CJVR Ltd. (CJVR), licensee of CJVR-FM and CKJH Melfort. CJVR stated that it had monitored the programming broadcast on CJNE-FM over a seven-day period beginning 1 January 2007, and that its analysis revealed the following:
 - 18.2% Canadian content during the broadcast week,
 - 22.2% Canadian content during the periods 6 a.m. to 6 p.m., Monday to Friday,
 - No local news stories, and
 - Lack of news on certain days.

5. CJVR expressed the view that the findings with respect to the broadcast of Canadian music constitute apparent violations of subsections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), which stipulate that:

2.2(8) Except as otherwise provided under a licensee's condition of licence that refers expressly to this subsection and subject to subsection (6), an A.M. or F.M. licensee licensed to operate a commercial station, community station or campus station shall, in a broadcast week, devote 35% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

2.2(9) Except as otherwise provided under a licensee's condition of licence, and subject to subsection (6), an A.M. or F.M. licensee licensed to operate a commercial station shall, between 6:00 a.m. and 6:00 p.m., in any period beginning on Monday of a week and ending on Friday of the same week, devote 35% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

Licensee's response to the complaint

6. In a letter dated 10 February 2007, CJNE replied to the complaint. Upon reviewing its playlist for the week in question, CJNE offered the following results:
- 31.3% Canadian content during the broadcast week,
 - 10.2% Canadian content during the periods 6 a.m. to 6 p.m., Monday to Friday,
 - 13.8% Canadian content on Saturday January 6, and
 - 7.1% Canadian content on Sunday January 7.
7. CJNE admitted in its response that it had been in non-compliance with respect to both sections 2.2(8) and 2.2(9) of the Regulations during the week beginning 1 January 2007, although it noted that the week monitored directly followed Christmas, and was a period in which it usually broadcasts a great deal of Ukrainian Christmas music.

Intervention

8. The Commission received an intervention in opposition to this application, from CJVR in which the intervener reiterated the points made in its complaint, discussed above. CJVR further indicated that Tisdale's decreasing population is already well served by many radio stations, including CJVR's Melfort stations, which would be negatively affected by approval of CJNE's application to establish a transmitter in Tisdale. The intervener expressed the view that approval of this application would not bring any additional diversity to Tisdale, would not provide a community service, and would not contribute to local talent initiatives.

Applicant's reply

9. In response to the opposing intervention, CJNE stated that, from 1 January 2007 until April 2007, it had covered 187 local news and community items. While only 64 of those items were directly related to the Tisdale area, CJNE indicated that, if it had better signal coverage in that community, it would be able to provide more local news coverage. The licensee also stated that it provides live coverage of emergencies, it is involved in many fund-raising projects in the area, and that it receives positive community response from these activities. With respect to the intervener's assertion that Tisdale is already well-served, CJNE stated that all of the radio signals receivable in Tisdale are not reliable. Finally, CJNE indicated that, while several businesses in Tisdale already buy advertising on CJNE-FM, it does not foresee any growth in advertising revenue from the Tisdale market.

Commission's analysis

Canadian content

10. As part of its consideration of this application, the Commission analyzed the programming broadcast on CJNE-FM during the week of 11 to 17 March 2007. In a letter dated 13 April 2007, the Commission advised the licensee that, based on a review of the station's logger tape for 13 March 2007 and the licensee's music list for the broadcast week, it estimated that the Canadian content level for category 2 music broadcast during the broadcast week was 36%, and for the period between 6 a.m. and 6 p.m., Monday to Friday of that week was 47.8%. These findings indicate that, during the week of 11 to 17 March 2007, the licensee was in compliance with its regulatory obligations with respect to the broadcast of Canadian music.
11. With respect to the analysis of CJNE-FM's programming carried out by CJVR, the Commission notes that monitoring during the Holiday season is not normally undertaken, and that it does not normally rely on monitoring by a third party in order to determine a licensee's compliance with regulatory obligations.
12. However, the Commission is of the view that it cannot ignore the licensee's admission of non-compliance with respect to the regulatory requirements for the broadcast of Canadian music during the week of 1 to 7 January 2007, even given that the admission was made in response to the results of monitoring conducted by a third party.

Market impact

13. The Commission notes that CJNE contradicted itself on the issue of service to Tisdale. As part of this application process, it indicated that it did not propose to provide programming exclusively targeted to Tisdale. However, in its reply to CJVR's intervention, the applicant noted that it would provide more local news coverage of Tisdale, if it had better signal coverage in that area.

14. In addition, CJNE stated that it is already drawing revenue from the Tisdale market. Since Tisdale is not in CJNE's primary market area, approval of this application, together with CJNE's stated intention of providing more local coverage in Tisdale, would allow CJNE to draw additional revenue from Tisdale.
15. In Broadcasting Decision 2006-123, the Commission denied an application by Treana Rudock¹, on behalf of a corporation to be incorporated, to operate a new FM radio station in Tisdale. In that decision, the Commission noted that the introduction of a new FM station in Tisdale would have the potential for an undue impact upon the operation of CJVR's Melfort stations. The Commission notes that the total revenue growth for CJVR's two Melfort stations has been minimal since the launch of CJNE-FM Nipawin in 2002.

Commission's determination

16. It is the Commission's longstanding practice to deny licence amendments requested by licensees that are in non-compliance with their regulatory obligations. Given CJNE's admitted non-compliance with sections 2.2(8) and 2.2(9) of the Regulations, the Commission does not consider that a departure from this practice is warranted in this case.
17. The Commission is further of the view that the economic situation in the Tisdale radio market has not changed since the issuance of Broadcasting Decision 2006-123, and that approval of this application would result in undue negative impact on the radio market in that community.
18. The Commission therefore **denies** the application by CJNE FM Radio Inc. for an amendment to the licence to operate CJNE-FM Nipawin, in order to add an FM transmitter at Tisdale to broadcast the programming of CJNE-FM.

Secretary General

Related documents

- *English-language FM radio station in Tisdale*, Broadcasting Decision CRTC 2006-123, 4 April 2006

This decision is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

¹ Treana Rudock is a co-owner of CJNE FM Radio Inc.