



Broadcasting Decision CRTC 2009-349

Route reference: 2009-36

Ottawa, 16 June 2009

Canadian Broadcasting Corporation
Windsor and Leamington, Ontario

Application 2008-1352-8, received 7 October 2008

Public Hearing in the National Capital Region

30 March 2009

CBE Windsor – Conversion to FM band and new transmitter in Leamington

*The Commission **approves** the application by the Canadian Broadcasting Corporation for a broadcasting licence to operate a new English-language FM radio programming undertaking in Windsor to replace its AM station CBE and to operate an FM transmitter in Leamington.*

Introduction

1. The Commission received an application by the Canadian Broadcasting Corporation (CBC) for a broadcasting licence to operate an English-language FM radio programming undertaking in Windsor to replace its existing AM station CBE Windsor. The new station would operate at 97.5 MHz (channel 248B) with an average effective radiated power (ERP) of 3,200 watts. The station would maintain the current format, which includes both programming received from the CBC's national Radio One network and local programming.
2. The application by the CBC was originally announced in Broadcasting Notice of Public Hearing 2008-14. In its initial application as set out in that notice, the CBC also proposed to operate a new FM transmitter in Leamington at 91.5 MHz. At the request of the CBC, the application was withdrawn from the 26 January 2009 hearing in Orillia and rescheduled at the 30 March 2009 hearing in the National Capital Region. The CBC indicated that it had received notification by the Department of Industry (the Department) that it was not in a position to technically approve the use the frequency 91.5 MHz as the U.S. Federal Communications Commission (FCC) had received an application for that frequency prior to the CBC's filing of its technical brief. In its amended application, the CBC proposed to operate the new FM transmitter in Leamington at 91.9 MHz (channel 220B1) with an average ERP of 5,300 watts.
3. The Commission received an intervention commenting on as well as interventions opposed to the CBC's application. Most of the interventions in opposition focused on the CBC's original proposal relating to the 91.5 MHz frequency, which at the time of its initial application was used by CJAM Student Media Corporation, University of Windsor

(CJAM) to operate CJAM-FM Windsor as an unprotected low-power community-based campus FM radio station. In its intervention, CJAM stated that it would be willing to support the CBC's application if it were successful in its application to obtain protected status at 99.1 MHz. In Broadcasting Decision 2009-160, the Commission approved the application by CJAM to amend the broadcasting licence for CJAM-FM in order to change its frequency to 99.1 MHz (channel 256A). The Commission therefore considers that the above-noted interventions are no longer relevant to its consideration of the present application.

Commission's analysis and determination

4. The Commission has analysed the revised parameters submitted by the CBC and notes that the proposed use of the frequency 91.9 MHz for Leamington is not in conflict with other applications for stations in the region.
5. In light of all of the above, the Commission **approves** the application by the Canadian Broadcasting Corporation for a broadcasting licence to operate an English-language FM radio programming undertaking in Windsor to replace its AM station CBE and to operate an FM transmitter in Leamington. The terms and **conditions of licence** are set out in the appendix to this decision.

Simulcast period and revocation of AM licence

6. As set out in the appendix to this decision, the licensee is authorized to simulcast the programming of the new FM station on CBE Windsor 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 *Broadcasting Act* and consistent with the licensee's request, the Commission **revokes** the licence for CBE effective at the end of the simulcast period.
7. As agreed to by the CBC, the Commission expects that within 30 days of the implementation of the FM radio station in Windsor, the CBC will apply for the revocation of the authorization granted in Broadcasting Decision 2008-102 for a nested FM transmitter on the 102.3 MHz frequency in Windsor.

Employment equity

8. Because the CBC is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *CJAM-FM Windsor – Technical changes*, Broadcasting Decision CRTC 2009-160, 26 March 2009

- Broadcasting Notice of Public Hearing CRTC 2008-14 – Notice of consultation and hearing, 13 November 2008
- *CBE and CBEF Windsor – New transmitters at Windsor*, Broadcasting Decision CRTC 2008-102, 9 May 2008

This decision is to be appended to the licence. It 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>.

Appendix to Broadcasting Decision CRTC 2009-349

Terms, conditions of licence and expectation

Terms

Issuance of the broadcasting licence to operate an English-language FM radio programming undertaking in Windsor and an FM transmitter in Leamington, Ontario

The licence will expire 31 August 2015.

The station will operate at 97.5 MHz (channel 248B) with an average effective radiated power (ERP) of 3,200 watts (maximum ERP of 19,000 watts with an effective height of antenna above average terrain of 130.1 metres).

The transmitter will operate at 91.9 MHz (channel 220B1) with an average ERP of 5,300 watts (maximum ERP of 10,450 watts with an effective height of antenna above average terrain of 73.6 metres).

The Department of Industry (the Department) has advised the Commission that while this application is conditionally technically acceptable, it will only issue broadcasting certificates when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.

The Commission reminds the applicant that pursuant to subsection 22(1) of the *Broadcasting Act*, no licence may be issued until the Department 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 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 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 16 June 2011. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

1. The licensee shall not broadcast any commercial message belonging to content category 5 (Advertising) except:
 - a) during programs that are available to the licensee only on a sponsored basis; or
 - b) as required to fulfil the requirements of the legislation of the Parliament of Canada pertaining to elections.

2. In each broadcast week, the licensee shall devote at least 50% of its musical selections from content category 2 (Popular music) to Canadian musical selections scheduled in a reasonable manner throughout the broadcast day.
3. In each broadcast week, the licensee shall devote at least 20% of its musical selections from content category 3 (Special interest music) to Canadian musical selections.
4. The licensee is authorized to simulcast the programming of the new FM station on CBE Windsor and its transmitter for a transition period of three months following the commencement of operations of the FM station.
5. The licensee shall adhere to its self-regulatory guidelines on sex-role portrayal, as amended from time to time and approved by the Commission, and as a minimum, to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission.

Expectation

The Commission expects that within 30 days of the implementation of the FM radio station in Windsor, the licensee will apply for the revocation of the authorization granted in *CBE and CBEF Windsor – New transmitters at Windsor*, Broadcasting Decision CRTC 2008-102, 9 May 2008, for a nested FM transmitter on the 102.3 MHz frequency.