



## Broadcasting Decision CRTC 2010-538

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Route reference: 2010-84

Ottawa, 2 August 2010

**Houssen Broadcasting Ltd.**  
Moncton, New Brunswick

*Application 2009-1665-3, received 10 December 2009*

### **CKOE-FM Moncton – Technical change**

*The Commission **denies** an application by Houssen Broadcasting Ltd. (Houssen) to change the authorized contours of the English-language specialty radio station CKOE-FM Moncton.*

*The Commission **directs** Houssen to pay all of its outstanding contributions to the development of Canadian content and talent by 31 August 2010.*

#### **Introduction**

1. The Commission received an application by Houssen Broadcasting Ltd. (Houssen) relating to the English-language specialty radio programming undertaking CKOE-FM Moncton. Specifically, the licensee proposed to change the station's authorized contours by increasing the average effective radiated power (ERP) from 50 watts to 3,700 watts,<sup>1</sup> by relocating the transmitter to a location northeast of its present site, and by reducing the antenna height from 141 meters to 112 meters. The Commission received interventions in support of this application.
2. CKOE-FM is a low-power radio station that provides a Christian music service designed to appeal primarily to youth.
3. Houssen indicated that the proposed technical change would allow it to better serve the community by making it possible for the station to reach into rural areas that cannot be reached now due to the nature of the local terrain and the transmitter's low power. The licensee further stated that the proposed change would offer a better reception of CKOE-FM's signal in offices and/or steel buildings in the Moncton radio market.

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<sup>1</sup> In Broadcasting Notice of Consultation 2010-84, the Commission indicated that the power increase would be from 50 watts to 4,500 watts. However, an intervention opposing the proposed increase in power was submitted by the Canadian Broadcasting Corporation (CBC). Following an agreement reached by Houssen and the CBC, the licensee advised the Commission that it was decreasing the proposed ERP from 4,500 watts to 3,700 watts. The CBC subsequently chose to withdraw its opposing intervention.

4. The Commission notes that the licensee may have failed to comply with section 9(2) of the *Radio Regulations, 1986* (the Regulations), which relates to the provision of annual reports, for the 2009 broadcast year. Further, the licensee may have failed to comply, for the 2009 broadcast year, with section 15(2) of the Regulations, which relates to set amounts licensees are required to contribute annually to Canadian content development<sup>2</sup> (CCD), as well as with its condition of licence relating to contributions to Canadian talent development (CTD) for the 2007 and 2008 broadcast years.

### **Commission's analysis and determinations**

5. After examining the application in light of the applicable regulations and policies, the Commission considers that the issue to be addressed in its determinations is the licensee's apparent non-compliance with its regulatory requirements relating to the provision of annual reports and with its regulatory requirements and conditions of licence relating to contributions to Canadian content and talent.

### **Provision of annual reports**

6. As set out in section 9(2) of the Regulations, licensees are required to file their annual report for a given broadcast year by 30 November of that same broadcast year. The Commission notes that it received the licensee's annual report for the 2009 broadcast year on 20 April 2010.

### **Contributions to the development of Canadian content and talent**

7. As set out in the Regulations, licensees are required to complete payment of a contribution to the development of Canadian content or talent for a given broadcast year by the end of that broadcast year (i.e., 31 August). The Commission notes that, for the broadcast years 2007 and 2008, the licensee did not make its CTD contributions by the 31 August deadline. Further, in these same broadcast years, the licensee did not allocate, as required by condition of licence, \$3,000 to the Christian Media Association (CMA). Finally, as set out in section 15(2) of the Regulations, licensees are required to contribute set amounts to eligible CCD initiatives; Commission records indicate that no CCD payments were made by Housen for the 2009 broadcast year.
8. In response to a deficiency request by the Commission, Housen acknowledged that it owed \$3,000 to the CMA for the 2008 broadcast year. It further requested Commission authorization to redirect that amount to the production of a video of Canadian artist Naomi Striemer, and noted that the funds would be administered by the CMA. In this regard, the Commission reminds the licensee that, as set out in Broadcasting Public Notice 2006-158, it must ensure that all CCD expenditures are used to fund initiatives that support, promote, train and develop Canadian musical and

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<sup>2</sup> Previously known as Canadian talent development

spoken word talent, including journalists. In the Commission's view, the licensee's proposed production of a video would not qualify as an eligible initiative.

9. In regard to the licensee's CTD contribution made to CMA for the 2007 broadcast year, the Commission notes that the documents provided as proof of payment were illegible. Although Houssen was asked on 25 March 2010 to resubmit the documents, they have as of yet not been received. Consequently, the Commission cannot at this time conclude that the 2007 CTD payment was in fact made to the CMA.
10. In light of the above, the Commission **directs** Houssen to pay all of its outstanding CTD/CCD contributions by 31 August 2010. The Commission reminds Houssen that, should it not provide, by 31 August 2010, proof of payment for its required 2007 CTD contribution of \$3,000, it must pay this amount no later than that date.

## **Conclusion**

11. The Commission generally denies licence amendments requested by licensees that are in non-compliance with their regulatory requirements. It is the Commission's view that the same practice should be applied to applications for technical changes that do not constitute licence amendments. Given CKOE-FM's non-compliance with sections 9(2) and 15(2) of the Regulations, and given its non-compliance with its condition of licence relating to CTD, the Commission does not consider that a departure from this practice is warranted in this case.
12. Accordingly, the Commission **denies** the application by Houssen Broadcasting Ltd. to change the authorized contours of the English-language specialty radio programming undertaking CKOE-FM Moncton by increasing the average ERP from 50 watts to 3,700 watts, by relocating the transmitter to a location northeast of its present site, and by reducing the antenna height from 141 meters to 112 meters.

Secretary General

## **Related documents**

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2010-84, 12 February 2010
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006