



## Broadcasting Decision CRTC 2012-82

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Route reference: 2011-229

Additional references: 2011-229-1 and 2011-229-2

Ottawa, 9 February 2012

**Lighthouse Broadcasting Limited**  
Medicine Hat, Alberta

*Application 2010-1837-5, received 14 December 2010*

*Application 2011-0028-9, received 12 January 2011*

### **CJLT-FM Medicine Hat – Licence amendments**

*The Commission **denies** the application by Lighthouse Broadcasting Limited (Lighthouse) to amend the broadcasting licence for its English-language specialty radio station CJLT-FM Medicine Hat in order to delete the station's condition of licence relating to the broadcast of religious musical selections.*

*The Commission also **denies** the application by Lighthouse to amend the broadcasting licence for CJLT-FM in order to change the frequency and authorized contours of the station's transmitter, and to relocate the transmitter.*

### **Introduction**

1. The Commission received an application (2010-1837-5) by Lighthouse Broadcasting Limited (Lighthouse) to amend the broadcasting licence for the English-language specialty radio programming undertaking CJLT-FM Medicine Hat in order to delete the station's condition of licence relating to the broadcast of religious musical selections. This condition of licence, set out in Broadcasting Decision 2010-419, reads as follows:

The licensee shall devote a minimum of 95% of all musical selections broadcast during each broadcast week to selections drawn from subcategory 35 (Non-classic religious).
2. In this regard, the licensee proposed to replace CJLT-FM's Christian music format with a broad-based adult contemporary format targeting a female audience from 25 to 54 years of age. Noting that the station has been experiencing financial difficulties for several years, Lighthouse submitted that the station's current format is not a viable commercial format in the small Medicine Hat radio market and that this licence amendment is necessary in order to build a strong and viable business.
3. The Commission also received an application (2011-0028-9) by Lighthouse to amend the broadcasting licence for CJLT-FM in order to change the frequency of its transmitter

from 93.7 MHz (channel 229A) to 103.3 MHz (channel 227C1), to change its authorized contours by increasing the effective radiated power (ERP) from 2,300 watts to 58,000 watts (non-directional antenna) and by increasing the effective height of antenna above average terrain from 99.5 to 109 metres, and to relocate its transmitter approximately 30 kilometres south of its current broadcasting site. Lighthouse submitted that the proposed technical changes would increase the commercial appeal of CJLT-FM by improving its signal quality in and around Medicine Hat, and would allow fair competition to exist amongst all commercial radio broadcasters in the community.

4. As noted in Broadcasting Notice of Consultation 2011-229, Lighthouse indicated that the application to delete the condition of licence relating to the broadcast of religious musical selections is severable from the application for the various technical changes.
5. For both applications, the Commission received interventions in support, an intervention offering general comments from Rogers Broadcasting Limited (Rogers), the licensee of CKMH-FM Medicine Hat, and interventions in opposition from Clear Sky Radio Inc. (Clear Sky) and Jim Pattison Broadcasting Group (Pattison). For application 2010-1837-5, the Commission also received an intervention in opposition from an individual. The public record for these applications can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

### **Commission's analysis and decisions**

6. After examining the public record for these applications in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
  - Would the deletion of the condition of licence relating to the broadcast of religious musical selections have an undue negative impact on the Medicine Hat radio market?
  - Would the deletion of the condition of licence relating to the broadcast of religious musical selections call into question the integrity of the Commission's licensing process?
  - Would the deletion of the condition of licence relating to the broadcast of religious musical selections affect programming diversity in the Medicine Hat radio market?
  - Has the applicant demonstrated technical or economic need for the proposed technical changes?

**Would the deletion of the condition of licence relating to the broadcast of religious musical selections have an undue negative impact on the Medicine Hat radio market?**

#### ***Interventions***

7. In its intervention, Rogers contended that approval of the licence amendment relating to the broadcast of religious musical selections would be tantamount to introducing a full-

fledged new commercial radio service into the Medicine Hat radio market, and that this would have a negative financial impact on existing services in that market.

8. Pattison submitted that the Medicine Hat radio market cannot support, at this time, increased competition in a pool of stations that are licensed as mainstream music stations. In this regard, it contended that the Medicine Hat economy is currently not thriving and that this municipality's radio advertising market has not yet absorbed additional competition following the launch of two new local commercial mainstream radio stations in 2008. It further contended that the applicant made a grossly inaccurate market impact assessment in terms of tuning impact and revenue impact.
9. Pattison also questioned Lighthouse's claims that the Medicine Hat radio market is too small to support a Christian music station. In this regard, it noted, on the one hand, that Medicine Hat is part of the Canadian "Bible belt" and, on the other hand, that the Christian music station CKVN-FM Lethbridge, which is owned and operated by Golden West Broadcasting and operates in a similar and only slightly larger radio market, appears to be in a good financial situation.

***Applicant's reply***

10. In its reply to Rogers, Lighthouse stated that the Medicine Hat radio market appears to be much stronger financially than expected. It acknowledged that there would be some impact on existing stations should the proposed licence amendment be approved, but argued that this impact would be minimal given the strong financial performance of the other stations in the market. Noting that the proposed technical changes would be completed in two phases over a period of time, Lighthouse submitted that its competitors would enjoy a technical competitive advantage until those changes are implemented. It further noted that it is not a new competitor in the Medicine Hat radio market given that CJLT-FM is already a commercial undertaking, contrary to what Rogers submitted in its intervention.
11. In its reply to Pattison, Lighthouse argued that the Medicine Hat radio market is improving from a financial point of view. It noted that although the intervener's stations have seen a decrease of revenue due to the licensing of two new stations, Pattison had a significantly higher than average profit before interest and taxes (PBIT), as noted by the Commission in Broadcasting Decision 2007-154, and had a monopoly in the Medicine Hat radio market before the licensing of the new radio stations approved in that decision. Lighthouse further noted that the opposition to the proposed changes came from two of the three profitable broadcasters operating in Medicine Hat.
12. Lighthouse also argued that, contrary to the statements from Pattison, Medicine Hat is too far from the "Bible Belt" to be able to attract advertisers for major Christian events. It also disputed Pattison's comparison between CJLT-FM and CKVN-FM and set out a number of differences between the two stations, for example, the lower ERP of CJLT-FM's transmitter, the smaller population of Medicine Hat, that city's smaller and older religious congregations, and the fact that CJLT-FM is an independently owned station. Lighthouse stated that should the Commission determine that the market is unable to

sustain the deletion of CJLT-FM's condition of licence relating to the broadcast of religious musical selections, due to undue financial difficulties that would be incurred on any one broadcaster, it would accept a condition of licence requiring it to broadcast a substantially reduced percentage of religious musical selections (for example, 10% rather than 95%), coupled with the proposed increase in transmitter power.

### ***Commission's decision***

13. In regard to the potential impact of deleting the condition of licence relating to the broadcast of religious musical selections, the Commission notes that two of the radio stations in the market (CKMH-FM and CJCY-FM Medicine Hat) launched only recently, in 2008. The Commission further notes that since the launch of these stations, the aggregate profitability in the market has declined significantly and remains well below the profitability recorded in the Medicine Hat radio market in 2007. As such, the Commission considers that the addition of a mainstream commercial radio station at this time could strain the profitability in the Medicine Hat radio market.
14. In regard to the licensee's alternate proposal relating to CJLT-FM's broadcast of religious musical selections, the Commission notes that this alternate proposal was presented in response to the interventions received. As such, parties to the proceeding were not provided with an opportunity to comment on that proposal. Furthermore, given that the financial data provided by Lighthouse were based on the deletion of the condition of licence in question, it is the Commission's view that these data are not valid in regard to Lighthouse's alternate proposal and would therefore be unreliable in the Commission's examination of that proposal. Accordingly, the Commission does not consider it appropriate to consider Lighthouse's proposal to substantially reduce the percentage of religious programming that CJLT-FM must broadcast as an alternative to deleting the condition of licence relating to the broadcast of religious musical selections.

**Would the deletion of the condition of licence relating to the broadcast of religious musical selections call into question the integrity of the Commission's licensing process?**

### ***Interventions***

15. Rogers requested that the consideration of Lighthouse's two applications be deferred until the Commission has issued a call for applications for broadcasting licences to operate new radio programming undertakings to serve the Medicine Hat radio market. It submitted that approval of the present applications would allow Lighthouse to obtain a new mainstream commercial radio station without having participated in a competitive process.
16. Clear Sky qualified Lighthouse's application as a "back door" attempt to obtain a broadcasting licence for a mainstream commercial FM radio station in the Medicine Hat radio market. It noted that the current owner of Lighthouse, Mr. Patrick Lough, acquired effective control of Lighthouse and of CJLT-FM in 2008,<sup>1</sup> less than a year after his

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<sup>1</sup> See Broadcasting Public Notice 2008-114.

application for a broadcasting licence to operate a radio station in Medicine Hat was denied,<sup>2</sup> and that Mr. Lough was therefore well aware of the increase in radio competition he would be facing. Clear Sky further noted that Lighthouse has not proposed any Canadian content development (CCD) contributions as part of the current application, which are generally considered as part of the quality of the application in the context of a competitive process.

***Applicant's reply***

17. In regard to Rogers' intervention, Lighthouse argued that a competitive process of issuing any "new licences" in the Medicine Hat radio market would not be in the public's best interest since a broadcaster in that market is currently struggling. The applicant also refuted Clear Sky's claim of a "back-door" entry into the Medicine Hat radio market, as well as its claim in regard to CCD contributions. In regard to the latter, Lighthouse noted that, in a letter to the Commission dated 27 January 2011, it proposed to contribute to the development of Canadian content \$3,000 over and above its required CCD contribution (specifically, \$1,500 per broadcast year in its fourth and fifth years of operation).

***Commission's decision***

18. CJLT-FM was licensed in Broadcasting Decision 2003-12 to operate as a low-power, English-language specialty Christian music FM radio programming undertaking to operate on frequency 99.5 MHz. During CJLT-FM's first licence term, the Commission authorized amendments to the station's technical parameters, including a frequency change and a substantial power increase (see Broadcasting Decision 2007-154), as well as the above-noted change in the effective control of Lighthouse. In the Commission's view, the requested modifications would result in CJLT-FM becoming a mainstream commercial station in the market without a competitive licensing process. As such, the Commission considers that the proposed programming amendment would result in a case of "back-door" entry into the Medicine Hat radio market.

**Would the deletion of the condition of licence relating to the broadcast of religious musical selections affect programming diversity in the Medicine Hat radio market?**

***Intervention***

19. In its intervention, Pattison submitted that approval of the proposed amendment relating to a change in format would decrease programming and music format diversity in the Medicine Hat radio market.

***Applicant's reply***

20. In its reply, Lighthouse submitted that approval of the proposed amendment would in fact add to diversity in the Medicine Hat radio market. It argued that the target demographic for its proposed mainstream light adult contemporary format (i.e., listeners from 25 to 54 years of age) is not adequately served by incumbent radio stations, in particular,

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<sup>2</sup> See Broadcasting Decision 2007-154.

CFMY-FM Medicine Hat (licensed to Pattison), which it claimed has a relatively younger core audience than CJLT-FM, and CJCY-FM (licensed to Clear Sky), which it claimed has a much older core audience.

### ***Commission's decision***

21. In Broadcasting Public Notice 2008-4, the Commission specified that “diversity” in the Canadian broadcasting system should relate to the diversity of elements, the plurality of editorial voices within the private element, and the diversity of programming. It notes that a number of mainstream commercial formats serving the adult listening audience are currently available in the Medicine Hat radio market (e.g. CFMY-FM – Classic Rock/Contemporary Hits; CHAT-FM Medicine Hat – Country; CKMH-FM Medicine Hat – broad-based Rock; CJCY-FM – Adult Standards/Modern Nostalgia).
22. The Commission considers that CJLT-FM’s current condition of licence relating to its specialty format ensures a certain degree of diversity in the Medicine Hat radio market. In the Commission’s view, permitting Lighthouse to migrate CJLT-FM’s Christian specialty music format to a mainstream light adult contemporary format would therefore result in a loss of diversity in terms of the programming offered in that radio market.

**Has the applicant demonstrated technical or economic need for the proposed technical changes?**

### ***Intervention***

23. In its intervention, Rogers submitted that the proposed technical changes raise concerns in regard to scarce radio frequencies in Medicine Hat. For its part, Clear Sky argued that the proposed technical changes would not result in the best use of the frequency spectrum, and noted that the proposed frequency is first adjacent to the frequency 103.5 MHz (channel 278C), which may still be used in Lethbridge. It also noted that the technical changes approved in Broadcasting Decision 2007-154 allowed CJLT-FM to gain protected status and almost double its coverage. Clear Sky further submitted that the proposed technical changes are not justified, given that the population increase resulting from those technical changes would be very minimal and would occur in outlying areas. It argued that there is no valid technical reason to request such a change and highlighted the fact that Lighthouse itself stated that there were no technical issues leading to its application. Finally, Clear Sky questioned Lighthouse’s financial claims relating to cash flow and the cost of building a new broadcast tower.

### ***Applicant's reply***

24. In its reply to Rogers, Lighthouse indicated that there is plenty of available bandwidth in the Medicine Hat radio market. In its reply to Clear Sky’s comments on the financial situation in the market and of the station, Lighthouse stated that CJLT-FM’s financial downturn began when new stations were launched following the call for applications in 2007. It also argued that it attempted other modifications to become financially viable, such as technical amendments, before requesting a programming amendment.

### **Commission's decision**

25. In the Commission's view, Lighthouse has not demonstrated a technical need for the requested technical amendment. Further, although Lighthouse has demonstrated an economic need, the Commission considers that the requested modification would not result in a sizeable increase of population included in the station's contours. In addition, although Lighthouse stated that the two applications in question were severable, it was unclear as to whether it would implement the technical amendment if the application for that amendment was approved and if the application for the programming amendment was denied.

### **Conclusion**

26. In light of all of the above, the Commission **denies** the application by Lighthouse Broadcasting Limited to amend the broadcasting licence for the English-language specialty radio programming undertaking CJLT-FM Medicine Hat in order to delete the station's condition of licence relating to the broadcast of religious musical selections. Further, the Commission **denies** the application by Lighthouse to amend the broadcasting licence for CJLT-FM in order to change the frequency of its transmitter from 93.7 MHz (channel 229A) to 103.3 MHz (channel 227C1), to change its authorized contours by increasing the ERP from 2,300 watts to 58,000 watts (non-directional antenna) and by increasing the effective height of antenna above average terrain from 99.5 to 109 metres, and to relocate its transmitter approximately 30 kilometres south of its current broadcasting site.

Secretary General

### **Related documents**

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2011-229, 5 April 2011, as amended by Broadcasting Notices of Consultation CRTC 2011-229-1, 7 April 2011, and 2011-229-2, 12 April 2011
- *CJLT-FM Medicine Hat – Licence renewal*, Broadcasting Decision CRTC 2010-419, 30 June 2010
- *Applications processed pursuant to streamlined procedures* – Information bulletin, Broadcasting Public Notice CRTC 2008-114, 3 December 2008
- *Diversity of voices* – Regulatory policy, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Licensing of two new radio stations to serve Medicine Hat, Alberta and technical changes for CJLT-FM Medicine Hat*, Broadcasting Decision CRTC 2007-154, 28 May 2007