



Broadcasting Decision CRTC 2014-302

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Route reference: 2013-568

Ottawa, 6 June 2014

United Christian Broadcasters Canada
Thunder Bay, Ontario

Applications 2013-1070-6 and 2013-1074-7, received 19 July 2013
Public hearing in Surrey, British Columbia
27 January 2014

CJOA-FM Thunder Bay – Acquisition of assets, licence amendments and technical changes

*The Commission **approves** an application by United Christian Broadcasters of Canada (UCB) for authority to acquire from Thunder Bay Christian Radio, the assets of the English-language specialty (Christian music) radio station CJOA-FM Thunder Bay and for a new broadcasting licence to continue the operation of the station.*

*The Commission also **approves** the applicant's request to delete conditions of licence requiring that all of CJOA-FM's programming be locally produced and that the station not broadcast any commercial messages.*

*Finally, the Commission **approves** an application by UCB to change CJOA-FM's authorized contours. As a result, the station's licence class will change from low-power unprotected to A1 protected.*

Applications

1. United Christian Broadcasters Canada (UCB) filed an application (2013-1070-6) for authority to acquire from Thunder Bay Christian Radio the assets of the English-language specialty (Christian music) radio station CJOA-FM Thunder Bay and for a new broadcasting licence to continue the operation of the station.
2. UCB also requested the deletion of conditions of licence requiring that all of CJOA-FM's programming be locally produced and that the station not broadcast any commercial messages.
3. UCB is a not-for-profit corporation controlled by its Board of Directors. Following the proposed transaction, UCB would become the licensee of CJOA-FM.
4. UCB also filed an application (2013-1074-7) to change the authorized contours of CJOA-FM by increasing the effective radiated power (ERP) from 50 to 250 watts

(non-directional antenna with an effective height above average terrain of 24.8 metres). This increase in power would result in a change of CJOA-FM's status from low-power unprotected to Class A1 protected.

Interventions

5. The Commission received a joint intervention by 62 people in support of UCB's applications.
6. The Commission also received two interventions in opposition by C.J.S.D. Incorporated (C.J.S.D.), licensee of CKPR-FM and CJSD-FM Thunder Bay, and by Acadia Broadcasting Limited (Acadia), licensee of CKTG-FM and CJUK-FM Thunder Bay. The public record for these applications is available on the Commission's website at www.crtc.gc.ca or by using the application numbers provided above.
7. C.J.S.D. submitted that UCB is using an application for a power increase as a "back door approach" to obtain a protected service in the Thunder Bay market. In addition, it is concerned that, given the lack of detail about local programming, the station might simply become a repeater for the UCB network of stations. It was further concerned that commercial advertising on CJOA-FM would drain revenues from existing commercial stations. C.J.S.D. also submitted that UCB had not demonstrated that there is a demand for its service in the market. In this regard, C.J.S.D. noted that, in addition to CJOA-FM, Thunder Bay is also served by CJTL-FM-1, which also provides a Christian radio service. CJTL-FM-1 rebroadcasts the signal of CJTL-FM Pickle Lake, which is operated by the Native Evangelical Fellowship of Canada.
8. Acadia argued that approval of the licence amendments would place CJOA-FM in direct competition with existing commercial stations in the highly competitive Thunder Bay Market. It also questioned the process that UCB was using to obtain a Class A1 licence.

Applicant's reply

9. In reply, UCB stated that it was not using a back door approach to enter the market but rather was using a legitimate approach established by the Commission under which it would obtain a new licence. UCB considered that it needs a protected frequency in light of the significant investments it would make in CJOA-FM in order for the station to better serve listeners in Thunder Bay.
10. UCB further stated that financial impact on commercial stations has never been an issue in markets where UCB stations operate. It indicated that approximately 70% of UCB's revenues come from charitable donations. The remaining come from paid programming and limited air-times sales. UCB indicated that most of the sales revenues come from businesses and churches that do not advertise on mainstream radio stations. As a result, UCB does not drain revenues directed to existing stations.

11. Finally, UCB stated that CJOA-FM is a local Christian radio station with an adult contemporary music format. It submitted that this format was unique in the market and would add diversity to the programming available in Thunder Bay. UCB further argued that the fact that it proposed to offer no less than 92 hours of local programming per week demonstrates that CJOA-FM would not be a repeater for the UCB network with no local flavour.

Issues

12. After examining the public record for these applications in light of applicable regulations and policies, the Commission considers that the issues to be addressed are:

- whether conditions of licence relating to CJOA-FM's local programming and advertising should be deleted;
- whether the requested technical changes are appropriate;
- whether the transaction is in the public interest; and
- whether the payment of tangible benefits is necessary.

Deletion of conditions of licence relating to CJOA-FM's programming

13. UCB requested the deletion of the following conditions of licence set out in Broadcasting Decision 2013-161:

- The station's programming shall be 100% locally produced.
- The licensee shall not broadcast any commercial messages.

Local programming

14. The Commission notes that UCB has committed to broadcast at least 92 hours of local programming per broadcast week. This would permit it to broadcast some syndicated programming, which provides an important source of revenue for UCB stations.

15. While C.J.S.D. was concerned that CJOA-FM may become a repeater for the UCB programming as a result of the reduction in the amount of local programming, it is not the Commission's usual practice to require a licensee to broadcast only local programming. In this case, the Commission considers that 92 hours of local programming is sufficient to provide a strong, diverse local service.

16. Accordingly, the Commission considers that it is appropriate to **approve** UCB's request to delete the condition of licence requiring that all programming be locally produced.

Commercial messages

17. The standard conditions of licence set out in Broadcasting Regulatory Policy 2009-62 provide that commercial FM radio stations in markets other than those serving single-station markets shall refrain from soliciting local advertising for broadcast during any broadcast week when less than one-third of the programming (42 hours) aired is local.
18. UCB is proposing to broadcast levels of local programming that exceed the one-third level. There is no limit on the amount of other types of advertising unless the licensee is subject to a specific condition of licence in this regard.
19. The opposing interveners were concerned that the broadcast of commercial messages by CJOA-FM would take revenues from the commercial stations operating in Thunder Bay.
20. The Commission is of the view that the following factors would limit the impact of advertising broadcast by CJOA-FM on other stations:
 - approximately 30% of UCB's projected revenues would come from charitable donations;
 - the projected advertising revenues represent a modest share of advertising in the market;
 - most advertising revenues would come from churches and business that do not generally advertise on mainstream stations;
 - CJOA-FM would continue to operate under a condition of licence requiring that at least 95% of musical selections be non-classic religious selections.
21. The Commission further considers that incumbent stations are well positioned to sustain this additional competition from a niche radio service.
22. Accordingly, the Commission finds that the broadcast of commercial messages by CJOA-FM would not have an undue negative impact on other stations in the Thunder Bay market. It therefore considers that it would be appropriate to **approve** UCB's proposal to delete the condition of licence providing that no commercial messages be broadcast.

Appropriateness of the proposed technical changes

23. CJOA-FM is currently licensed as a low-power unprotected FM service. Approval of the application would change its operating class to that of a service that has protected status under the Department of Industry's (the Department) rules. The Commission expects a licensee that applies to change the operating class of its low-power radio station to demonstrate a compelling technical or economic need for the proposed changes in order to provide the service as originally proposed.

24. UCB submitted that the technical changes are necessary to protect the investments it intends to make in CJOA-FM and to enable it to serve the community of Thunder Bay as effectively as possible.
25. The Commission notes that CJOA-FM's revenues have been very modest over the last five years and that the financial projections submitted by UCB suggest that future revenues for the service would be extremely limited. Approval of the proposed technical changes would permit CJOA-FM to have sufficient revenues to serve Thunder Bay more effectively.
26. UCB also requested that the Commission consider its application for the technical changes on its own merit in the same way that it would if the request were made as part of an application for a new FM service, rather than as part of an application for an ownership change.
27. The Commission notes that if UCB had applied for a new licence in the Thunder Bay market, it would have evaluated its application pursuant to Broadcasting Public Notice 2006-159. In that notice, the Commission stated that it would not necessarily issue a call for competing applications for proposals with very little or no commercial potential or impact. It would, however, generally issue a call when an applicant proposes to use the last frequency available in the market.
28. Given that UCB is a new entrant in the Thunder Bay market and a new licence would be issued, the Commission considers that it would be appropriate to evaluate UCB's application for technical changes according to the same criteria it would use if UCB were applying for a new FM service. Accordingly, the Commission will address the following issues:
 - whether the proposed technical changes represent an appropriate use of spectrum; and
 - the potential financial impact of the proposed technical changes on the Thunder Bay radio market.

Appropriate use of spectrum

29. The Commission considers that approval of the licensee's proposal would not result in additional interference to other stations and would improve CJOA-FM's coverage of Thunder Bay. The Commission also notes that there are other frequencies available to serve the Thunder Bay market. The Commission therefore finds that the licensee's proposal makes appropriate use of spectrum.

Financial impact

30. As indicated above, the service would remain modest and its impact on the Thunder Bay advertising market would be limited given that CJOA-FM operates a niche service and incumbent stations are well positioned to sustain additional competition. The Commission is therefore of the view that the commercial impact of the technical

changes would be very limited and approval of the proposal would have no undue financial impact on incumbent stations.

31. In light of the above, the Commission considers that it is appropriate to **approve** the technical changes proposed by UCB.

The public interest

32. UCB stated that approval of the transaction would ensure the continued operation of CJOA-FM in Thunder Bay as an independent broadcaster that adds diversity to the programming available. It also stated that, following the transaction, it would employ local staff and broadcast local spoken word content, which CJOA-FM does not currently air.
33. In light of the above, the Commission considers that the transaction is in the public interest.

Tangible benefits

34. In Broadcasting Public Notice 2006-158, the Commission set out its tangible benefits policy in regard to transactions involving radio stations. In that policy, the Commission considered it appropriate to require a financial contribution of at least 6% of the value of the transaction to the development of Canadian content. However, the Commission does not generally require tangible benefits for commercial radio stations that are unprofitable. Radio stations are considered to be unprofitable if their profit before interest and tax (PBIT) averaged over three years preceding the filing of the application to purchase is negative.
35. Given that CJOA- FM's PBIT averaged over the three years preceding the filing of the application has been negative, the Commission finds that tangible benefits are not necessary for this transaction.

Conclusion

36. In light of all the above, the Commission **approves** the application by United Christian Broadcasters Canada for authority to acquire from Thunder Bay Christian Radio the assets of the English-language specialty (Christian music) radio programming undertaking CJOA-FM Thunder Bay and for a new broadcasting licence to continue the operation of the undertaking.
37. The Commission also **approves** the request to amend the broadcasting licence for CJOA-FM in order to delete the following conditions of licence:
- The station's programming shall be 100% locally produced.
 - The licensee shall not broadcast any commercial messages.

38. Finally, the Commission **approves** the application by UCB to change the authorized contours of CJOA-FM by increasing the ERP from 50 to 250 watts (non-directional antenna with an effective height above average terrain of 24.8 metres). This increase in power will result in a change of CJOA-FM's status from low-power unprotected to A1 protected.
39. Upon surrender of the current licence issued to Thunder Bay Christian Radio, the Commission will issue a new broadcasting licence to United Christian Broadcasters Canada. The licence will expire **31 August 2018**, the same expiry date as that of the current licence. The terms and **conditions of licence** for the station are set out in the appendix to this decision.
40. The Commission reminds the licensee that, pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Canadian content development

41. UCB is a not-for-profit corporation and is therefore not required to make any Canadian content development (CCD) contributions. Nevertheless, the Commission notes that UCB has made a voluntary commitment to contribute \$1,000 per year to CCD.

Secretary General

Related documents

- *Various radio programming undertakings (specialty and ethnic) – Licence renewals*, Broadcasting Decision CRTC 2013-161, 28 March 2013
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Revised policy concerning the issuance of calls for radio applications and a new process for applications to serve small markets*, Broadcasting Public Notice CRTC 2006-159, 15 December 2006
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

Appendix to Broadcasting Decision CRTC 2014-302

Terms, conditions of licence and encouragements for the English-language specialty (Christian music) radio programming undertaking CJOA-FM Thunder Bay, Ontario

Terms

The licence will expire 31 August 2018.

The station will operate at 95.1 MHz (channel 236A1) with an effective radiated power of 250 watts (non-directional antenna with an effective height above average terrain of 24.8 metres).

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, as amended from time to time.
2. The licensee shall operate the station within the Specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, as amended from time to time, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.
3. The licensee shall ensure that a minimum of 95% of all musical selections broadcast during each broadcast week are drawn from content subcategory 35 (Non-classic religious), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.
4. The licensee shall ensure that, in each broadcast week, not less than 15% of all musical selections drawn from content category 3 (Special Interest Music) are Canadian musical selections broadcast in their entirety.

Encouragement

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.