



## Broadcasting Decision CRTC 2014-36

PDF version

Route reference: 2013-536

Additional reference: 2013-536-1

Ottawa, 3 February 2014

### **James Houssen, on behalf of a corporation to be incorporated**

Saint John and Rothesay, New Brunswick

*Application 2013-0895-8, received 20 June 2013*

*Public hearing in the National Capital Region*

*5 December 2013*

### **CJRP-FM Saint John and CJRP-FM-1 Rothesay – Acquisition of assets and licence amendment**

*The Commission **approves** an application by James Houssen, on behalf of a corporation to be incorporated, for authority to acquire from Pritchard Broadcasting Inc. the assets of the low-power, English-language specialty radio station CJRP-FM Saint John, New Brunswick and its transmitter CJRP-FM-1 Rothesay.*

*The Commission also **approves** the applicant's request to amend the broadcasting licence in order to remove the spoken word requirement and replace it with a requirement to broadcast Christian music.*

#### **The application**

1. The Commission received an application by James Houssen, on behalf of a corporation to be incorporated, (James Houssen (OBCI)) for authority to acquire from Pritchard Broadcasting Inc. (Pritchard) the assets of the low-power, English-language specialty radio station CJRP-FM Saint John, New Brunswick, and its transmitter CJRP-FM-1 Rothesay. The applicant also requested a new licence to continue the operation of the undertaking under the same terms and conditions as those set out in the current licence, with one exception. The applicant requested that the condition of licence related to the broadcast of a minimum level of spoken word programming be deleted and replaced with a condition requiring it to broadcast a minimum percentage of musical selections drawn from subcategory 35 (Non-classic religious). The Commission did not receive any interventions in connection with this application.
2. James Houssen (OBCI) will be owned and controlled by James Houssen.
3. As a result of the transaction, James Houssen (OBCI) would become the licensee of CJRP-FM.

4. In Broadcasting Notice of Consultation 2013-536, the Commission noted that the current licensee of CJRP-FM may have failed to comply with its condition of licence relating to Canadian content development (CCD) contributions and with its condition of licence relating to the broadcast of spoken word programming.

### **Commission's analysis and decision**

5. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issues that it must address relate to the following:
  - the value of the transaction;
  - the proposed tangible benefits package;
  - amendments to conditions of licence; and
  - the current licensee's outstanding CCD contribution amount.

#### **Value of the transaction**

6. Because the Commission does not solicit competing applications for authority to transfer the ownership or control of radio, television and other programming undertakings, the onus is on the applicant to demonstrate that the benefits proposed in the application are commensurate with the size and nature of the transaction.
7. Pursuant to the terms of the Asset Purchase Agreement, the purchase price for the transaction is \$5,000. The purchaser will be assuming leases in the amount of \$55,500. Consequently, the Commission determines that the revised value of the transaction amounts to \$60,500.

#### **Proposed tangible benefits package**

8. Consistent with the Commission's tangible benefits policy set out in Broadcasting Public Notice 2006-158, James Houssen (OBCI) proposed a tangible benefits package equal to 6% of the proposed \$5,000 value of the transaction (i.e. \$300).
9. Consistent with the revised value of transaction, the required value of the proposed tangible benefits package will increase from the proposed \$300 to \$3,630 (i.e., 6% of the revised amount of \$60,500).
10. In accordance with Broadcasting Regulatory Policy 2010-499, the Commission therefore **directs** James Houssen (OBCI) to allocate its benefits contribution over seven consecutive broadcast years, in equal payments, as follows:
  - 3% (\$1,815) to the Radio Starmaker Fund or Fonds Radiostar;
  - 1.5% (\$907.50) to FACTOR or MUSICACTION;

- 1% (\$605) at the discretion of the purchaser, to any eligible CCD initiative; and
- 0.5% (\$302.50) to the Community Radio Fund of Canada.

#### **Licence amendment**

11. CJRP-FM currently operates in a commercial specialty News/Talk/Classic Hits format and must devote at least 50% of its total weekly programming to spoken word. The applicant proposed to continue to operate the station as a specialty station but to change the format to that of a Christian country music service.

12. Accordingly, the applicant requested the deletion of the following condition of licence:

The licensee shall devote more than 50% of each broadcast week to the broadcast of spoken word programming.

13. The applicant proposed to replace the above condition of licence with the following:

During each broadcast week, at least 90% of all musical selections shall be drawn from 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.

14. James Houssen (OBCI) argued that the changes are necessary because the station's current News/Talk/Classic Hits format is not economically viable.

15. The Commission notes that the Saint John market is currently served by a Christian music service. NewSong Communications Ministries Ltd. operates the low-power English-language specialty (Christian music) radio station CINB-FM. While both stations would offer a Christian music format, CJRP-FM would differentiate itself from CINB-FM's Contemporary Christian format by providing a format that features Christian country music. In this regard, the Commission considers that the two stations would be complementary with respect to their formats. Further, the Commission did not receive any interventions in this regard from incumbent stations in the Saint John radio market.

16. Given that CJRP-FM would continue to operate within a niche, specialty format, the Commission is of the view that approval of the licence amendment would add programming diversity to the Saint John radio market.

#### **Current licensee's outstanding Canadian content development contribution amount**

17. In Broadcasting Decision 2013-647, the Commission renewed the broadcasting licence for CJRP-FM for a short term until 31 August 2017. In that decision, the Commission found the current licensee to be in non-compliance with its requirements relating to CCD contributions and to spoken word programming.

18. With respect to the non-compliance relating to CCD contributions, Pritchard still had an outstanding CCD contribution (\$1,750) from a previous licence term. The Commission directed the licensee, by condition of licence, to pay the outstanding CCD contribution by 3 March 2014. The Commission notes that James Houssen (OBCI) has agreed to pay the outstanding CCD contribution amount owed by Pritchard within 30 days of the date of this decision.
19. Accordingly, the Commission **directs** James Houssen (OBCI) to expend the \$1,750 shortfall to CCD by **5 March 2014** and to file with the Commission appropriate proof of payment. A **condition of licence** to this effect is set out in the appendix to this decision.

### **Other considerations**

20. The Commission notes that CJRP-FM ceased broadcasting in April 2013 due to financial difficulties. In this respect, James Houssen (OBCI) indicated that the station would be on air within 48 hours of the Commission's decision approving its application.
21. In Broadcasting Decision 2013-647, the Commission renewed CJRP-FM's broadcasting licence from 1 January 2014 until 31 August 2017. The short-term licence renewal was the result of the current licensee's non-compliance with requirements for Canadian Talent Development and CCD contributions and CJRP-FM's condition of licence relating to spoken word programming. The Commission considers that it would be appropriate for the new broadcasting licence to also expire on 31 August 2017 in order that the Commission may review the licensee's compliance with the *Radio Regulations, 1986* and its conditions of licence at an earlier date.

### **Conclusion**

22. In light of all of the above, the Commission **approves** the application by James Houssen, on behalf of a corporation to be incorporated, for authority to acquire from Pritchard Broadcasting Inc. the assets of the low-power, English-language specialty radio programming undertaking CJRP-FM Saint John and its transmitter CJRP-FM-1 Rothesay.
23. The Commission also **approves** the request to amend the broadcasting licence for the English-language specialty radio programming undertaking CJRP-FM Saint John and its transmitter CJRP-FM-1 Rothesay in order to delete the condition of licence relating to spoken word programming and replace it with the following condition of licence:

The licensee shall devote at least 90% of all musical selections broadcast each broadcast week to selections from 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.
24. Upon surrender of the current licence issued to Pritchard, the Commission will issue a new broadcasting licence to the applicant once it has satisfied the Commission with supporting documentation that an eligible Canadian corporation has been incorporated in accordance with the application in all material respects. The new licence will expire 31

August 2017. The terms and **conditions of licence** for this station are set out in the appendix to this decision.

25. The Commission **directs** James Houssen (OBCI) to file, by **5 March 2014**, executed copies of all corporate documents.

Secretary General

**Related documents**

- *CJRP-FM Saint John and CJRP-FM-1 Rothesay – Licence renewal*, Broadcasting Decision 2013-647, 3 December 2013
- *Notice of hearing*, Broadcasting Notice of Consultation 2013-536, 4 October 2013
- *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010
- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

\* *This decision is to be appended to the licence.*

## Appendix to Broadcasting Decision CRTC 2014-36

### Terms, conditions of licence and encouragements for the low-power, English-language specialty radio programming undertaking CJRP-FM Saint John, New Brunswick and its transmitter CJRP-FM-1 Rothesay

#### Terms

The licence will expire on 31 August 2017.

#### 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, with the exception of condition of licence 7.
2. The station shall be operated 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 *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 devote at least 90% of all musical selections broadcast each broadcast week to selections from 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 expend the Canadian content development (CCD) shortfall incurred by the previous licensee by making a contribution to CCD totalling \$1,750 to any party or initiative fulfilling the definition of an eligible initiative set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, as amended from time to time, and provide the Commission with proof of this payment by **5 March 2014**.

#### Encouragements

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.