



Broadcasting Decision CRTC 2016-421 and Broadcasting Orders CRTC 2016-422, 2016-423 and 2016-424

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Reference: 2016-64-1

Ottawa, 20 October 2016

Sur Sagar Radio Inc.
Surrey, British Columbia

*Reference number 2016-0203-7
Public hearing in Vancouver, British Columbia
16 May 2016*

Sur Sagar Radio Inc. and Ravinder Singh Pannu – Issuance of mandatory orders

The Commission issues a mandatory order requiring Sur Sagar Radio Inc. (Sur Sagar) and Ravinder Singh Pannu not to carry on a broadcasting undertaking in Surrey, British Columbia, or anywhere else in Canada, except in compliance with the Broadcasting Act.

The Commission also issues a mandatory order requiring Sur Sagar and Mr. Pannu, where either operates a broadcasting undertaking pursuant to an exemption, to comply at all times with the terms of that exemption.

Finally, the Commission issues a mandatory order requiring Sur Sagar and Mr. Pannu to file reports with the Commission relating to the programming and operations of VF2688 as set out in the present decision and as may be requested by the Commission from time to time.

Introduction

1. On 11 September 2015, the Commission received a complaint from South Asian Broadcasting Corporation Inc. (South Asian Broadcasting), licensee of the commercial ethnic radio station CKYE-FM Vancouver, British Columbia. South Asian Broadcasting alleged that Surrey Myfm inc. was operating VF2689 Surrey as an unauthorized commercial ethnic FM radio station rather than as an exempt tourist information radio station as it claimed. The Commission's determination in regard to this complaint is set out in Broadcasting Decision 2016-414, also issued today.
2. As a result of its investigation into the complaint, the Commission began examining other entities in the Surrey/Vancouver area claiming to operate their services as exempt low-power radio stations.

3. One of the services examined was VF2688 Surrey, an FM radio station operated by Sur Sagar Radio Inc. (Sur Sagar) at frequency 91.5 MHz. Sur Sagar is owned and controlled by Ravinder Singh Pannu. This station produces programming for broadcast on the radio, but does not hold a broadcasting licence to carry on a radio programming undertaking, as Sur Sagar and Mr. Pannu purport to operate it as an exempt low-power house of worship radio station pursuant to Broadcasting Order 2013-621 (the Exemption Order).
4. In light of the information gathered, the Commission, in Broadcasting Notice of Consultation 2016-64-1, noted that Sur Sagar appeared to be operating its house of worship station in non-compliance with the Exemption Order, and, in particular, that Sur Sagar is:
 - broadcasting programming that is inconsistent with paragraphs 4 and 7 of the Exemption Order; and
 - broadcasting above the station's technical parameters as authorized by the Department of Industry (the Department), contrary to paragraphs 1 and 2 of the Exemption Order.
5. The Commission also stated that Sur Sagar therefore appeared to be carrying on a broadcasting undertaking in whole or in part in Canada without a broadcasting licence, contrary to the *Broadcasting Act* (the Act).
6. Consequently, the Commission called Sur Sagar and Mr. Pannu to appear at the 16 May 2016 public hearing in Vancouver to inquire into, hear and determine whether they are carrying on an undertaking in whole or in part in Canada without a licence and to provide them with an opportunity to show cause why a mandatory order should not be issued requiring them to cease and desist from operating a broadcasting undertaking in Surrey or elsewhere in Canada, except in compliance with the Act.
7. The Commission received interventions in support of Sur Sagar, as well as interventions in opposition from I.T. Productions Ltd., licensee of the commercial AM ethnic radio station CJRJ Vancouver, and the British Columbia Association of Broadcasters. Sur Sagar replied to the opposing interventions. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca or by using the reference number provided above.

Commission's analysis and decisions

8. The key issue in this proceeding is whether Sur Sagar and Mr. Pannu are carrying on an undertaking in whole or in part in Canada without a broadcasting licence. The Commission must therefore determine whether Sur Sagar:
 - broadcasts programming that is inconsistent with the Exemption Order; and
 - is operating according to the technical requirements set out in the Exemption Order.

Programming issues

9. The Exemption Order exempts low-power radio programming undertakings that provide live local broadcasts of religious services, weddings, funerals, and other such religious celebrations and ceremonies from the requirement to hold a broadcasting license. Following its analysis of recordings submitted for the week of 31 January to 6 February 2016, the Commission considered whether programming on VF2688 was consistent with paragraphs 4, 6 and 7 of the Exemption Order, which provide the following programming criteria:
 4. The programming provided by the undertaking consists solely of live local broadcasts of religious services, weddings, funerals, and other such religious celebrations and ceremonies.
 6. The undertaking does not broadcast the programming of any other programming undertaking.
 7. The undertaking does not broadcast any musical selections unless they form an integral part of the religious ceremony being broadcast.
10. It appeared that the programming included discussions on social activities such as charity work, exchanging ideas and planting trees, rather than consisting solely of religious celebrations and ceremonies as required under paragraph 4 of the Exemption Order. Moreover, it appeared that during the period from midnight to 3:00 a.m. of 31 January 2016, the station broadcast programming that had already been broadcast and, as such, was not live programming as required by paragraph 4 of the Exemption Order.
11. Further, it appeared that certain programs broadcast on the station on 31 January 2016 originated from India, contrary to paragraph 6 of the Exemption Order.
12. Although it initially appeared that Sur Sagar was broadcasting music contrary to paragraph 7 of the Exemption Order, monitoring showed that the programming did not contain any music, other than musical selections that form an integral part of the religious ceremony being broadcast.
13. At the hearing, Sur Sagar stated that VF2688 provides a service to a “segment of the population that is interested in maintaining a close connection with the Gurdwara Dukh Nivaran Sahib [the Gurdwara] or who might be unable to attend on a daily or regular basis.”¹ It added that all of the programming originates from the Gurdwara and that the day-to-day control of the station is exercised by the Granthi, or priest.
14. Sur Sagar admitted to having broadcast programming that was not live, contrary to paragraph 4 of the Exemption Order. It indicated that its programming included a repeat segment between midnight and 3:00 a.m. of live events that were selected from that day or from a previous day and would be of interest to its listeners. Sur Sagar stated that it was not

¹ Transcript, 16 May 2016 public hearing, volume 4, paragraph 6953

aware that services operating under the Exemption Order were required to broadcast live programming at all times, and believed it was broadcasting this repeat programming during the “unregulated” period of the broadcast day, based on Mr. Pannu’s interpretation of the definition of “broadcast day” set out in the *Radio Regulations, 1986* (the Regulations).

15. In regard to the programming that appeared to originate from India, Sur Sagar acknowledged that it was pre-recorded programming and admitted that the content related to events that were not local as the discussion was about activities in India. However, it was unsure if the programming had originated from India as it was inserted at the Gurdwara.
16. At the hearing, Sur Sagar confirmed it now understands that it must adhere to all terms and conditions of the Exemption Order at all times, and indicated that it would not broadcast during the midnight to 3:00 a.m. period when no live events are taking place at the Gurdwara. Sur Sagar added that it will inform the Commission if there is a possibility of live programming during the midnight to 3:00 a.m. period.
17. In light of the above, the Commission finds Sur Sagar and Mr. Pannu to have been broadcasting programming on VF2688 that is inconsistent with the programming requirements set out in paragraph 4 of the Exemption Order. However, it is inconclusive as to whether Sur Sagar broadcast programming that was inconsistent with the requirements set out in paragraph 6 of the Exemption Order.

Technical issues

18. In addition to the programming requirements, the Exemption Order sets out technical requirements for the operation of exempt low-power house of worship radio stations. Specifically, paragraphs 1 and 2 of the Exemption Order set out the following:
 1. The undertaking meets all technical requirements of the Department of Industry (the Department) and has acquired all authorizations or certificates prescribed by that Department.
 2. The low-power undertaking operates between 525 kHz and 1705 kHz in the AM frequency band or between 88 MHz and 107.5 MHz in the FM frequency band. The undertaking broadcasts with a transmitter power of less than 100 watts in the AM band, and with a maximum effective radiated power of 50 watts with a maximum transmitting antenna height of 60 metres in the FM band as defined by the Department of Industry in Parts II and III of its *Broadcasting Procedures and Rules*.
19. At the hearing, Sur Sagar confirmed that VF2688 operates at 91.5 MHz (channel 218LP) with an effective radiated power of 4 watts and an effective height of antenna above average terrain of 51.7 metres. These parameters correspond to the information shown on the broadcasting certificate issued by the Department for the station.
20. The Commission, as part of its above-noted examination of entities in the Surrey/Vancouver area, commissioned an engineering study, the results of which revealed a high probability that VF2688 was operating in breach of its authorized operating

technical parameters. In addition, the Department conducted monitoring of the station in March 2016 and performed an on-site inspection on 5 April 2016. Whereas the on-site inspection report noted that the transmitter was set appropriately, the results of the monitoring noted inconsistencies between the measurements recorded in March 2016 and those taken at the time of the on-site inspection.

21. According to Mr. Pannu, the inconsistencies were due to intermittent electrical power interruptions that occurred during the period prior to the Department's inspection, and the effect of those interruptions on the transmitter as it reboots. Mr. Pannu subsequently stated that the transmitter settings for VF2688 were not properly programmed to automatically reset to the proper power levels.
22. Based on the information gathered at the hearing and the technical reports on the record of this proceeding, the Commission finds that Sur Sagar was most likely operating VF2688 outside of the authorized technical parameters before 5 April 2016.
23. In light of Sur Sagar's responses during the hearing, the Commission finds that the procedures used by Sur Sagar and Mr. Pannu in setting up and monitoring its equipment led to deficiencies in ensuring that the station operates within its authorized operating technical parameters.

Conclusion

24. To broadcast in Canada, a broadcasting undertaking must have a licence or operate pursuant to an exemption. To this end, the Commission has issued various exemption orders, pursuant to section 9(4) of the Act, which permit entities to operate broadcasting undertakings without a licence. However, these entities must at all times operate strictly within the terms set out in the exemption order pursuant to which they seek to operate. Further, it is the responsibility of the operator of the undertaking to ensure it is doing so.
25. This responsibility includes knowing the terms and conditions of the exemption and the technical parameters within which the undertaking may operate. In the present case, Mr. Pannu indicated that he was not aware of his obligations under the Exemption Order, specifically that the "broadcast day" as defined in the Regulations (that is, excluding the period between midnight and 6:00 a.m.) did not apply to exempt services.
26. Furthermore, Mr. Pannu tried to deflect responsibility for his programming choices onto Commission staff, suggesting they had indicated that he was not required to comply during the overnight period. While the Commission acknowledges that Mr. Pannu did seek certain information regarding his operations from Commission staff, it appears that his interpretation of the responses ignored both the express terms and the spirit of the Exemption Order, pursuant to which he sought to operate VF2688. In particular, nowhere in the Exemption Order is there any reference to the "broadcast day" as defined in the Regulations. Despite Commission staff having drawn this fact to his attention, Mr. Pannu maintained that he was unaware that he had to operate in accordance with the Exemption Order at all times.

27. The demonstrated unawareness of the undertaking's obligations and the attempts by Mr. Pannu to deflect responsibility suggest that Mr. Pannu does not respect the Commission's authority or take his responsibilities as a broadcaster in the Canadian broadcasting system seriously. The Commission reminds Mr. Pannu that it is incumbent upon him as a Canadian broadcaster to be aware of his regulatory obligations and that it is his responsibility to ensure that his programming meets the criteria set out in the terms of the exemption order pursuant to which he purports to operate the undertaking.
28. In light of all of the above and of the admissions by Sur Sagar and Mr. Pannu at the hearing, the Commission finds that Sur Sagar and Mr. Pannu have not been broadcasting on VF2688 in accordance with the terms of the Exemption Order, pursuant to which they purport to operate the station. Consequently, the Commission finds Sur Sagar and Mr. Pannu to have been operating a broadcasting undertaking in Canada without a licence, in contravention of the Act.

Issuance of mandatory orders

29. Section 12(2) of the Act provides the following:

The Commission may, by order, require any person to do, without delay or within or at any time and in any manner specified by the Commission, any act or thing that the person is or may be required to do under this Part or any regulation, licence, decision or order made or issued by the Commission under this Part and may, by order, forbid the doing or continuing of any act or thing that is contrary to this Part, to any such regulation, licence, decision or order or to section 34.1.

30. Operating without a licence is one of the most serious offences under the Act. In light of this and the finding that Sur Sagar and Mr. Pannu are operating a broadcasting undertaking in Canada without a licence, the Commission considers it appropriate to issue mandatory orders pursuant to section 12(2) of the Act.
31. Accordingly, pursuant to section 12(2) of the Act, the Commission hereby **orders** Sur Sagar Radio Inc. and Ravinder Singh Pannu to not carry on a broadcasting undertaking in Surrey, British Columbia, or anywhere else in Canada, except in compliance with the Act. A mandatory order to this effect is set out in Appendix 1 to this decision.
32. The Commission also **orders**, pursuant to section 12(2) of the Act, that where Sur Sagar Radio Inc. or Ravinder Singh Pannu carry on a broadcasting undertaking in whole or in part in Canada pursuant to an exemption under the Act, they must do so at all times in accordance with the terms of the exemption pursuant to which they purport to operate. A mandatory order to this effect is set out in Appendix 2.
33. The Commission is aware that Mr. Pannu operates other licensed and exempt broadcasting undertakings. For greater clarity, the terms of these two mandatory orders apply to Mr. Pannu directly; given that the undertaking operates under his ownership and control, Mr. Pannu is the principal player in the situation that led to the contraventions of the Act identified in the present decision. As a result, failure to comply with the Act or an

exemption in regard to any of the undertakings that he operates may constitute a breach of these orders.

34. Furthermore, given its concerns regarding the programming and technical operations of VF2688, the Commission intends to continue monitoring the operations of Sur Sagar and Mr. Pannu. Accordingly, pursuant to section 12(2) of the Act, the Commission **orders** Sur Sagar Radio Inc. and Ravinder Singh Pannu to submit reports relating to the programming and operations of VF2688 as may be requested by the Commission from time to time. A mandatory order to this effect is set out in Appendix 3.
35. In regard to the reporting required under the mandatory order, the Commission **directs** Sur Sagar and Mr. Pannu to submit the following:
 - a field measurement report produced by a Canadian licensed professional engineer by **19 December 2016**. The Commission will provide guidance for the statement of work that will dictate the content of the report and will request additional field measurements as deemed necessary;
 - a self-monitoring plan by **19 December 2016**, detailing the procedures and methods that will be used to ensure the station is operating within the technical requirements set out in the Exemption Order; and
 - self-monitoring reports on a quarterly basis detailing technical issues encountered and how the station is operating within the technical requirements of the Exemption Order for that quarter.

Secretary General

Related documents

- *Surrey Myfm inc. and Ravinder Singh Pannu – Issuance of mandatory orders*, Broadcasting Decision CRTC 2016-414, 20 October 2016
- *Notice of hearing – Addition of three items*, Broadcasting Notice of Consultation CRTC 2016-64-1, 4 March 2016
- *Exemption order for low-power radio stations that provide programming from houses of worship*, Broadcasting Order CRTC 2013-621, 21 November 2013

Appendix 1 to Broadcasting Decision CRTC 2016-421

Broadcasting Mandatory Order CRTC 2016-422

Sur Sagar Radio Inc. and Ravinder Singh Pannu are hereby ordered, pursuant to section 12(2) of the *Broadcasting Act*, to not carry on a broadcasting undertaking in Surrey, British Columbia, or anywhere else in Canada, except in compliance with the *Broadcasting Act*.

Appendix 2 to Broadcasting Decision CRTC 2016-421

Broadcasting Mandatory Order CRTC 2016-423

Where Sur Sagar Radio Inc. or Ravinder Singh Pannu carry on a broadcasting undertaking in whole or in part in Canada pursuant to an exemption under the *Broadcasting Act*, Sur Sagar Radio Inc. and Ravinder Singh Pannu are hereby ordered, pursuant to section 12(2) of the *Broadcasting Act*, to do so at all times in accordance with the terms of the exemption pursuant to which they purport to operate the undertaking.

Appendix 3 to Broadcasting Decision CRTC 2016-421

Broadcasting Mandatory Order CRTC 2016-424

Sur Sagar Radio Inc. and Ravinder Singh Pannu are hereby ordered, pursuant to section 12(2) of the *Broadcasting Act*, to submit reports relating to the programming and operations of VF2688 as set out in *Sur Sagar Radio Inc. and Ravinder Singh Pannu – Issuance of mandatory orders*, Broadcasting Decision CRTC 2016-421, 20 October 2016, and as may be requested by the Commission from time to time.