



## Broadcasting Decision CRTC 2023-170

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Reference: Part 1 application posted on 14 November 2022

Ottawa, 2 June 2023

**Aboriginal Multi-Media Society of Alberta**  
Calgary and Medicine Hat, Alberta

*Public record: 2022-0935-3*

### **CJWE-FM Calgary – New transmitter to serve Medicine Hat and surrounding areas**

#### **Summary**

The Commission **approves**, on an exceptional basis, an application by the Aboriginal Multi-Media Society of Alberta to amend the broadcasting licence for the Indigenous (Type B Native) radio station CJWE-FM Calgary, Alberta, to operate an FM transmitter to rebroadcast the programming of CJWE-FM in Medicine Hat and surrounding areas.

#### **Background**

1. In Broadcasting Decision 2017-198, following a call for applications, the Commission approved an application by the Aboriginal Multi-Media Society of Alberta (AMMSA) for a broadcasting licence to serve the urban Indigenous communities in Calgary, Alberta. That station, now known as CJWE-FM Calgary, began operations in 2018.
2. In Broadcasting Decision 2022-125, the Commission approved, on an exceptional basis, an application by AMMSA to amend the broadcasting licence for CJWE-FM in order to add the rebroadcasting transmitter CJWE-FM-1 Lethbridge. In that decision, given that the communities to be served were all located in the Treaty 7 region and comprised an audience with common interests and languages, the Commission considered that AMMSA's application was consistent with the purpose for which the broadcasting licence for CJWE-FM was originally approved.

## Application

3. AMMSA filed an application to amend the broadcasting licence for the Indigenous (Type B Native)<sup>1</sup> radio programming undertaking CJWE-FM Calgary to operate an FM transmitter (which would be known as CJWE-FM-2 Medicine Hat) to rebroadcast the programming of CJWE-FM in Medicine Hat and surrounding areas. The Commission did not receive any interventions in regard to this application.
4. The proposed rebroadcasting transmitter would operate at 106.3 MHz (channel 292C1) with an effective radiated power (ERP) of 100,000 watts (non-directional antenna with an effective height of the antenna above average terrain [EHAAT] of 125.1 metres).
5. CJWE-FM-2 would serve an area southeast of Calgary. AMMSA stated that the proposed rebroadcasting transmitter would primarily serve the urban Indigenous populations living off reserve in the City of Medicine Hat, which AMMSA noted is the second-largest metropolitan area south of Calgary. AMMSA added that it would also provide service to smaller surrounding communities, including, among others, Seven Persons, Redcliff and Irvine.<sup>2</sup>
6. In its application, AMMSA indicated that it has intended, since CJWE-FM began operations in 2018, to provide an Indigenous radio service that would provide programming to the entire Treaty 7 territory. AMMSA stated that, if the Commission were to approve this application, the combined coverage provided by the originating station CJWE-FM Calgary, the recently approved rebroadcasting transmitter CJWE-FM-1 Lethbridge and the rebroadcasting transmitter proposed in this application would cover virtually the entire Treaty 7 region.

## Regulatory framework

7. Pursuant to section 5 of the *Broadcasting Act*, the Commission is required to regulate and supervise all aspects of the Canadian broadcasting system with a view of implementing the broadcasting policy set out in subsection 3(1) and having regard to the regulatory policy set out in subsection 5(2).
8. The Commission has the authority, pursuant to subsection 9(1) of the *Broadcasting Act*, to issue licences for the carrying on of broadcasting undertakings as well as to amend those licences.
9. When a licensee of a radio station files an application for technical changes to its licence, the Commission generally requires the licensee to present compelling

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<sup>1</sup> Type B Native stations, as defined in Public Notice 1990-89, are referred to as Indigenous stations in this decision.

<sup>2</sup> The Commission notes that, based on the proposed technical parameters for this transmitter, the communities of Medicine Hat, Seven Persons and Redcliff would be located within its primary contour. However, the community of Irvine, which is located outside the Treaty 7 boundary, would be located within the proposed transmitter's secondary contour.

technical or economic evidence justifying the requested technical changes. The Commission may, as an exception to this general approach, approve applications that do not provide compelling technical or economic evidence where the particular circumstances of the licensee warrant it. The Commission has deviated from this general approach in the past to approve applications that primarily reflect a desire to serve additional communities when it is in the public interest to do so.

## **Issues**

10. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it should address the following issues:
- whether the proposed rebroadcasting transmitter represents an appropriate technical solution;
  - whether the proposed frequency for the new rebroadcasting transmitter represents an appropriate use of spectrum;
  - whether approval of the application would result in an undue economic impact on incumbent stations;
  - whether the proposed rebroadcasting transmitter would provide programming primarily by and for members of the Indigenous community served; and
  - whether approval of the application would undermine the integrity of the Commission's licensing process.

### **Appropriate technical solution**

11. AMMSA did not submit this technical amendment on the grounds of technical deficiencies within its authorized contours. Rather, it proposed to rebroadcast its programming to additional urban Indigenous populations in Medicine Hat and surrounding areas.
12. The Commission considers that the addition of a rebroadcasting transmitter is generally an effective solution to improve coverage and should provide sufficient service to Medicine Hat and surrounding areas.
13. In light of the above, the Commission finds that the proposed rebroadcasting transmitter constitutes an appropriate technical solution for providing service to Medicine Hat and surrounding areas.

### **Appropriate use of spectrum**

14. As noted above, AMMSA proposed the use of frequency 106.3 MHz for the proposed transmitter.

15. Although approval of this application would remove the availability of this frequency from the surrounding communities, the Commission has identified other frequencies that could support similar technical parameters to those of the proposed rebroadcasting transmitter. As such, approval of this application would not impact the availability of frequencies in surrounding markets.
16. In light of the above, the Commission finds that AMMSA's proposal represents an appropriate use of spectrum.

### **Economic impact on incumbent stations**

17. The proposed rebroadcasting transmitter's primary contour would overlap those of four commercial radio stations, of which two are operated by Pattison Media Ltd. and two by Rogers Media Inc., as well as that of a specialty (religious music) radio station operated by Vista Radio Ltd.
18. AMMSA stated that it does not intend to establish a local sales office or have any sales representatives in Medicine Hat.
19. While the proposed rebroadcasting transmitter could strengthen AMMSA's position with advertisers trying to reach the Indigenous populations in Medicine Hat, AMMSA stated that it would have no impact on local sales generated by incumbent radio stations.
20. In light of the above, and given the nature of the proposed service, the Commission finds that approval of this application would not have an undue economic impact on incumbent stations in the Medicine Hat radio market.

### **Programming by and for members of the Indigenous community**

21. As set out in Public Notice 1990-89, the Commission expects the programming of Indigenous radio stations to specifically reflect the interests and needs of the Indigenous audiences that the stations are licensed to serve. These stations have a distinct role in addressing the specific cultural and linguistic needs of their audiences and creating an environment in which Indigenous music and spoken word creators can develop and flourish.
22. The Commission notes that the proposed rebroadcasting transmitter would permit existing Indigenous programming, uniquely curated and geared to reflect the languages, traditions and music of the Indigenous populations of the Treaty 7 region, to be accessed by Indigenous audiences not currently served by an Indigenous station. Further, the radio programming offered by CJWE-FM would not only help to increase awareness of regional issues, events and news but would also allow the Indigenous populations of this area to listen to specialized programming broadcast in their traditional languages, namely, the Blackfoot, Cree, Nakoda, T'suutina and Dene languages.

23. The Commission notes that the target audience of the proposed rebroadcasting transmitter is also located within the Treaty 7 territory and shares Indigenous languages, culture and interests with that of the originating station in Calgary. As the existing programming is uniquely curated to serve the specific interests of the Indigenous populations of Calgary and the Treaty 7 territory, the Commission is of the view that it would be of interest to the Indigenous populations of Medicine Hat and surrounding areas.
24. In light of the above, the Commission finds that approval of this application would provide programming primarily by and for members of the Indigenous community served.

### **Integrity of the Commission's licensing process**

25. As noted above, when the licensee of a radio station files an application for technical changes, the Commission generally requires the licensee to present compelling technical or economic evidence justifying the requested technical changes. Given that AMMSA did not provide technical or economic evidence in its application, the proposal can only be considered on an exceptional basis.
26. When seeking to add a rebroadcasting transmitter for the sole purpose of expanding service to an adjacent or distinct market, the applicant is expected to provide a compelling rationale as to why an exception to the general rule regarding technical amendments and the licensing process is warranted, and provide evidence supporting the granting of that exception. This protects the integrity of the Commission's licensing process by ensuring that such exceptions are not used as a "back door" to enter into markets when such entry would otherwise require a justification for the requested technical changes or the submission of an application to operate a new service. This evidence is often provided in the form of community letters of support, as was the case for the application approved on an exceptional basis in Broadcasting Decision 2022-125.
27. While this application does not have community letters of support, AMMSA stated that current listeners feel pride at hearing their language on the radio, and provided arguments for how the proposal can benefit unserved communities by providing significant amounts of Indigenous programming in various Indigenous languages.
28. The Commission is of the view that such programming would further many of the policy objectives set out in paragraph 3(1) of the *Broadcasting Act*, including subparagraph 3(1)(d)(iii) and paragraph 3(1)(o). Furthermore, it would also be consistent with the Government of Canada's commitment to support the maintenance, revitalization and promotion of Indigenous languages as set out in the *Indigenous Languages Act*.
29. The Commission notes that, in Broadcasting Decision 2023-109, it denied an application to amend the broadcasting licence of CIWE-FM Edmonton to operate a rebroadcasting transmitter in Fort McMurray. More specifically, the Commission

denied that application on the basis that the applicant had not applied based on technical or economic need and had not provided sufficient evidence to justify applying an exception to the Commission's general approach. Specifically, AMMSA had not made any submissions with respect to the reasons an exception should be granted nor had it provided anything to demonstrate that the service had a connection with and was of interest to the community it proposed to serve. Furthermore, listeners in that city already had access to Indigenous radio content and traditional-language programming rebroadcast to them by CFWE-FM-5 Fort McMurray, a rebroadcasting transmitter of CFWE-FM-4 Edmonton.

30. This application can, however, be distinguished from the application denied in Broadcasting Decision 2023-109. A certain nexus exists between the Indigenous communities that are served by CJWE-FM and would be served by the proposed rebroadcasting transmitter CJWE-FM-2 Medicine Hat that did not appear to exist between the communities that are served by CIWE-FM and would have been served by the proposed rebroadcasting transmitter in Fort McMurray. More specifically, CJWE-FM's programming is curated for urban Indigenous listeners in Calgary specifically, the market AMMSA initially proposed to serve, and the Treaty 7 territory more broadly, the region in which Calgary is located. As such, this proposed rebroadcasting transmitter would serve communities that share common interests and languages. Furthermore, AMMSA's proposal builds on its stated mandate to bring Indigenous radio service to the urban Indigenous populations located in the Treaty 7 territory, by expanding service to the second-largest metropolitan area south of Calgary.
31. In light of the above, the Commission finds that approval of this application would not undermine the integrity of the Commission's licensing process.

## **Conclusion**

32. In light of all of the above, the Commission considers that approval of this application would benefit the urban Indigenous populations located southeast of Calgary in the Treaty 7 territory, and that an exception to its general practice is therefore in the public interest.
33. Accordingly, the Commission **approves**, on an exceptional basis, the application by AMMSA to amend the broadcasting licence for the Indigenous (Type B Native) radio programming undertaking CJWE-FM in order to operate a transmitter to rebroadcast the programming of CJWE-FM in Medicine Hat and surrounding areas.
34. Pursuant to subsection 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department of Industry (also known as Innovation, Science and Economic Development Canada) notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

35. The transmitter must be in operation by no later than **2 June 2025**. To request an extension, the licensee must submit a written request to the Commission at least 60 days before that date, using the form available on the Commission's website.
36. As set out in section 16 of the *Radio Regulations, 1986* (the Regulations), licensees have obligations relating to the broadcast of emergency alert messages received from the National Alert Aggregation and Dissemination System. In regard to the authorized contours of the new transmitter CJWE-FM-2 resulting from the implementation of the technical changes approved in this decision, the Commission reminds the licensee that continued compliance with section 16 of the Regulations may require that any broadcast decoders (e.g., ENDEC) used for the purposes of broadcasting emergency alert messages on CJWE-FM, or on any rebroadcasting transmitters that may appear on the broadcasting licence for that station, be reprogrammed to properly account for the new authorized contours.

Secretary General

### **Related documents**

- *CIWE-FM Edmonton – New transmitter in Fort McMurray*, Broadcasting Decision CRTC 2023-109, 18 April 2023
- *CJWE-FM Calgary – New transmitter in Lethbridge*, Broadcasting Decision CRTC 2022-125, 10 May 2022
- *Licensing of new radio stations to serve the urban Indigenous communities in Vancouver, Edmonton, Calgary, Ottawa and Toronto*, Broadcasting Decision CRTC 2017-198, 14 June 2017
- *Native Broadcasting Policy*, Public Notice CRTC 1990-89, 20 September 1990

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