



Broadcasting Decision CRTC 2023-240

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References: Part 1 licence renewal application posted on 22 November 2022; Part 1 application posted on 22 November 2022

Ottawa, 4 August 2023

My Broadcasting Corporation
Peterborough, Ontario

Public record: 2022-0580-7 and 2022-0169-8

CJMB-FM Peterborough – Licence renewal and licence amendment

Summary

The Commission **renews** the broadcasting licence for the English-language commercial radio station CJMB-FM Peterborough, Ontario, from 1 September 2023 to 31 August 2030.

In addition, the Commission **approves** the licensee's request to delete conditions of service 2, 4 and 5 set out in the appendix to Broadcasting Decision 2018-289. These conditions of service required, respectively, that CJMB-FM operate within the specialty format, devote no more than 25% of each broadcast week to musical selections, and devote more than 50% of each broadcast week to the broadcast of spoken word programming.

Licence renewal

1. The Commission has the authority, pursuant to subsections 9(1) and 9.1(1) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*.
2. On 10 June 2022, the Commission issued Broadcasting Notice of Consultation 2022-152,¹ which listed radio stations for which the broadcasting licences would expire 31 August 2023 and therefore needed to be renewed to continue their operations. In that notice of consultation, the Commission requested that the licensees of those stations submit renewal applications for their broadcasting licences.

¹ As corrected in Broadcasting Notice of Consultation 2022-152-1.

3. In response, My Broadcasting Corporation (MBC) filed an application (2022-0580-7) to renew the broadcasting licence for the English-language commercial radio station CJMB-FM Peterborough, Ontario, which expires 31 August 2023. The Commission did not receive any interventions in regard to the licence renewal application.
4. The Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CJMB-FM Peterborough, Ontario, from 1 September 2023 until 31 August 2030.
5. Pursuant to subsection 49(1) of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act*. As such, conditions of licence for this licensee become conditions of service and continue to apply to the licensee. For ease of reference, the **conditions of service** for this station are set out in the appendix to this decision. Further, the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. The licensee shall also adhere to any such requirements set out in the broadcasting licence for the undertaking.

Licence amendment

6. MBC filed another application (2022-0169-8) to amend the broadcasting licence for CJMB-FM. Specifically, the licensee proposed to delete the following conditions of service, set out in the appendix to Broadcasting Decision 2018-289, relating to its specialty format:
 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, and *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
 4. The licensee shall devote no more than 25% of each broadcast week to the broadcast of musical selections.
 5. The licensee shall devote more than 50% of each broadcast week to the broadcast of spoken word programming.
7. Approval of the proposed amendment would permit the licensee to replace CJMB-FM's current talk/sports format with a classic alternative music/sports/talk hybrid format.
8. In support of its application, MBC stated that it had to change its format as a result of the shutdown of sports due to COVID-19. It is now applying to permanently remove the conditions of service that require CJMB-FM to operate within the specialty format.

9. MBC noted that it purchased CJMB-FM out of bankruptcy in 2013² after two previous owners failed to make the station profitable. After taking over, MBC changed CJMB-FM's format from religious music to talk/sports with a focus on local and professional sports, and providing play-by-play and commentary for various local sports teams as well as the Toronto Maple Leafs and the Toronto Blue Jays.
10. MBC stated that although there were tentative plans by different sports leagues to slowly resume after being shut down by COVID-19, it could be years before all teams are back to pre-pandemic levels of audience participation. Additionally, MBC stated that when listeners and revenues for CJMB-FM dropped from its already low threshold, it submitted an emergency application to the Commission in June 2020 to request a change to its programming but withdrew that application after being told by Commission staff that the Commission would consider the impact of the pandemic at licence renewal time.
11. MBC also stated that prior to changing its programming, it had considered the following other options:
 - airing all syndicated programming from US-based CBS radio, which would contravene the local programming requirement;
 - replacing all spoken word programming with local information and interviews, an expensive option that would further strain the station's finances; and
 - shutting down the station, which would eliminate jobs and a source of local information.
12. MBC stated that CJMB-FM has the smallest signal contour in Peterborough, the most restrictive conditions of service, and the lowest ratings.
13. MBC submitted that deleting the conditions of service would allow CJMB-FM to offer programming that is relevant to the community, and that it would maintain its commitment to local news and information. In addition, MBC stated that CJMB-FM would continue its commitment to sports once it returns to its pre-pandemic level.
14. The licensee argued that the impact of this application on the market would be zero and that it is trying to mitigate the erosion of CJMB-FM's revenues. MBC noted that COVID-19 had erased CJMB-FM's long-term, slow-growth plans and that to be forced to fully return to the sports format would not be financially viable.
15. MBC cited Broadcasting Decisions 2016-270 and 2014-116 as precedents where the Commission has approved applications to remove conditions of licence requiring stations to operate within the specialty format due to long-term revenue losses.

² See Broadcasting Decision 2013-671.

16. The Commission received an intervention from Bell Media Inc. (Bell Media), which operates CKPT-FM Peterborough and CKQM-FM Peterborough, in opposition to the licence amendment application. The concerns of the intervener and the applicant's reply are addressed later in this decision.

Issues

17. After examining the public record for this amendment application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:

- Has the licensee demonstrated an economic need for the proposed amendment?
- Would approval of the application result in an undue economic impact on other stations?
- Would approval of the application reduce the diversity of programming in the market?
- Would approval of the application undermine the integrity of the Commission's licensing process?

Economic need

18. CJMB-FM has struggled financially since it went on the air under previous ownership. Since acquiring the station out of bankruptcy in 2013, MBC has made significant efforts to improve the health of the service. The Commission considers that CJMB-FM will continue to struggle to find financial footing should it continue to operate in the specialty format. This concern is heightened by the fact that CJMB-FM operates with much lower power than the other commercial radio stations in Peterborough with which it competes.

19. Accordingly, the Commission finds that MBC has demonstrated an economic need for the proposed licence amendment.

Impact on other stations

20. The Peterborough radio market features six commercial stations, two each operated by Bell Media, 591989 B.C. Ltd., which is owned by Corus Radio Inc. (Corus) and MBC, as well as one community station for the University of Trent operated by Trent Radio.

21. In its intervention, Bell Media noted that CJMB-FM's listener share grew from 0.3% to 7% between the spring of 2020 and the fall of 2021 and that MBC has aggressively marketed the station as a competitor to other music stations in the market. In response, MBC stated that even if the application were approved, CJMB-FM does not have the technical ability to go head-to-head with the other higher-powered stations.

22. Approval of MBC's application would improve CJMB-FM's ability to compete with the commercial radio stations, which have the financial backing of the large vertically integrated players Corus and Bell Media. The Commission considers that the incremental revenues projected by MBC are modest and would not cause undue duress on those stations. Further, Corus did not intervene in opposition to the application.
23. The other radio station in the market, CFFF-FM Peterborough, is a community station and derives most of its revenues from grants and student fees. As such, increasing competition for radio advertising in Peterborough would have little effect on CFFF-FM.
24. In light of the above, the Commission finds that the proposed amendment would not result in undue economic impact on other stations in the Peterborough market.

Impact on programming diversity

25. In its intervention, Bell Media submitted that MBC aggressively markets CJMB-FM's new brand as a competitor to other popular stations in the market, including Bell Media's CKPT-FM. It also argued that MBC airs popular music programming that is similar to that of CKWF-FM Peterborough, which is operated by Corus. It considered that, as a result, CJMB-FM's proposed format change would reduce programming diversity in the Peterborough radio market. Noting that Broadcasting Regulatory Policy 2022-332 specified that the specialty format is an important tool for increasing variety of programming, Bell Media argued that approving the application would allow CJMB-FM to go head-to-head with other stations rather than providing a source of diverse programming.
26. In its reply, MBC submitted that the Bell Media and Corus radio stations also enjoy the opportunity to offer formats that compete with those of other stations. It argued that if its application were approved, nothing would change in the market, since CJMB-FM operates at a lower power than other stations and does not have the technical ability to compete directly with them.
27. Should the Commission approve MBC's application, CJMB-FM would no longer be required to offer sports/talk specialty programming and would have the flexibility to offer programming that competes more directly with that of the other Peterborough commercial radio stations, while still allowing it to broadcast some sports programming. Approval would therefore have an impact on the diversity of programming available in the Peterborough market. However, MBC stated that it would shut down CJMB-FM if the Commission denies its application, which would mean the loss of the radio station in its entirety, leading to fewer overall tuning choices in the market.
28. In light of the above, the Commission finds that approval or denial of the application has the potential to reduce the diversity of radio programming available in the Peterborough market.

Integrity of the licensing process

29. Bell Media noted that when examining licence amendment applications, one of the Commission's main concerns is whether approving the amendment would undermine its licensing process. It further noted that, according to Broadcasting Information Bulletin 2014-608, the Commission may deny a request to amend a condition of licence when the licensee has been found in non-compliance with the regulatory requirement it is seeking to amend. In this case, the intervener submitted that MBC, instead of complying with CJMB-FM's conditions of licence relating to the specialty format, has applied for a licence amendment to remove those conditions.
30. In its reply, MBC acknowledged that the integrity of the Commission's licensing process is important but noted that the process has slightly changed in the case of the current application due to the pandemic. It also stated that there is a long list of specialty-format stations that have been granted approval to change their conditions of licence after a period of financial distress, and that CJMB-FM has struggled for 18 years. Further, MBC submitted that the present application is intended to clean up the mess caused by the pandemic and to provide a common-sense path forward.
31. Historically, concern with the integrity of the Commission's licensing process is raised when an applicant requests a change to its licence within its first licence term or where the original licence was granted as part of a competitive process.
32. In the present case, CJMB-FM was originally licensed as a commercial radio station operating in the specialty (Religious music) format in 2004 (as CKKK-FM Peterborough) following a non-appearing hearing³ in which no other competing applications for Peterborough were considered.
33. Additionally, MBC has been struggling financially with CJMB-FM since acquiring the station in bankruptcy in 2013, and although it changed the station from a religious music to a talk format at its last licence renewal, it has maintained its commitment to the specialty format since 2013.
34. Bell Media argued that the Commission should not approve MBC's application because the licensee was in non-compliance with the conditions of licence for CJMB-FM that the licensee is proposing to delete. MBC indicated that it had changed format to maintain financial viability and had been informed by Commission staff that the impact of the pandemic on CJMB-FM's operations would be taken into consideration at the time of licence renewal. Therefore, as the licensee made Commission staff aware of the programming changes at the time of their implementation, there was no finding of non-compliance in this regard.
35. In Broadcasting Decision 2018-289, the Commission noted that CJMB-FM was in non-compliance with the conditions of licence it was seeking to amend at that time. However, the Commission approved the licence amendment application on an

³ See Broadcasting Notice of Public Hearing 2004-1.

exceptional basis due to demonstrated compelling economic need. The Commission considers that the licensee has demonstrated an economic need for the approval of the present application. Therefore, even if CJMB-FM were to be found in non-compliance with its conditions of service relating to the specialty format, the Commission considers that approval of the present application would still be justified and consistent with the rationale set out Broadcasting Decision 2018-289.

36. In light of the above, the Commission finds that approval of the application would not compromise the integrity of the Commission's licensing process.

Conclusion

37. The Commission considers that the applicant has demonstrated an economic need for the amendment, that the amendment will not have an undue negative impact on other stations in the market, and that approval would not undermine the integrity of the Commission's licensing process. Either approval or denial of the application has the potential to reduce the diversity of radio programming available in the Peterborough market.
38. Accordingly, the Commission **approves** the application by My Broadcasting Corporation to delete conditions of service 2, 4 and 5 set out in the appendix to Broadcasting Decision 2018-289.

Reminders

Local news

39. Radio stations are an important daily source of local news and information for communities. Holding a broadcasting licence comes with conditions, regulatory obligations and responsibilities, which include contributing to the Canadian broadcasting system by ensuring that Canadians have access to local programming that reflects their needs and interests and informs them of important current issues.
40. Although Broadcasting Regulatory Policy 2022-332 does not specify a minimum level of weekly news to be broadcast, it does specify the type of spoken word material that must be included as part of a station's local programming. In accordance with that regulatory policy, the Commission reminds the licensee that its station, in its local programming, must incorporate spoken word material of direct and particular relevance to the communities served, and that this programming must include local news, weather, sports coverage, and the promotion of local events and activities. In addition, the Commission encourages the licensee to ensure that a reasonable amount of daily local news and information is made available to those communities.

Force and effect of broadcasting licences

41. Pursuant to section 22 of *the Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect should the broadcasting certificate

issued by the Department of Industry (also known as Innovation, Science and Economic Development Canada) lapse.

Practical guide for radio licence renewals

42. To learn more about the Commission's review of compliance with requirements relating to radio licences, and about the radio renewal process, please consult the Commission's [Practical guide to radio licence renewals](#).

Secretary General

Related documents

- *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022
- *Call for licence renewal applications – Submission of renewal applications for broadcasting licences of radio stations expiring on 31 August 2023 – Regular renewal process*, Broadcasting Notice of Consultation CRTC 2022-152, 10 June 2022, as corrected by Broadcasting Notice of Consultation CRTC 2022-152-1, 18 August 2022
- *CJMB-FM Peterborough – Licence renewal and amendments*, Broadcasting Decision CRTC 2018-289, 17 August 2018
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *CJMB-FM Peterborough – Acquisition of assets*, Broadcasting Decision CRTC 2013-671, 11 December 2013
- Broadcasting Notice of Public Hearing CRTC 2004-1, 12 February 2004

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-240

Terms, conditions of service, expectations and encouragement for the English-language commercial radio programming undertaking CJMB-FM Peterborough, Ontario

Terms

The licence will expire 31 August 2030.

Conditions of service

1. The licensee shall adhere to the conditions of service set out in *Revised conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2022-334, 7 December 2022. Further, the licensee shall adhere to the requirements set out in the broadcasting licence for the undertaking.
2. The licensee shall adhere to all applicable requirements set out in the *Radio Regulations, 1986*, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.⁴
3. The licensee shall, as an exception of the percentage of Canadian musical selections set out in subsections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986*:
 - devote, in each broadcast week, at least 38% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety; and
 - devote, between 6 a.m. and 6 p.m., in any period beginning on Monday of a week and ending on Friday of the same week, at least 38% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

For the purposes of these conditions of service, the terms “broadcast week,” “Canadian selection,” “content category,” and “musical selections” shall have the meanings as those set out in the *Radio Regulations, 1986*.

Expectations

Cultural diversity

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

⁴ Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

Canadian emerging artists

Consistent with the Commission's determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to devote, in each broadcast week, at least 5% of the station's musical selections to selections from Canadian emerging artists broadcast in their entirety. The licensee should report annually on how it has met this expectation, including the percentage of selections from Canadian emerging artists out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the definition of "Canadian emerging artist" is the same as that set out in paragraph 346 of Broadcasting Regulatory Policy 2022-332.

Indigenous musical selections

Consistent with the Commission's determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to include Indigenous musical selections on the station's playlist. The licensee should report annually on the amount of Indigenous content aired on the station throughout the broadcast year (i.e., from 1 September to 31 August), including the percentage of Indigenous musical selections out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the licensee may use the provisional definition of "Indigenous-Canadian musical selection" set out in paragraph 441 of Broadcasting Regulatory Policy 2022-332 to determine whether a musical selection can be considered an Indigenous musical selection.

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 in its hiring practices and in all other aspects of its management of human resources.