



Broadcasting Decision CRTC 2023-316

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Reference: Part 1 application posted on 17 April 2023

Ottawa, 13 September 2023

Harvard Broadcasting Inc.
Edmonton, Alberta

Public record: 2023-0164-6

CKEA-FM Edmonton – Licence amendment

Summary

The Commission **approves** an application by Harvard Broadcasting Inc. to amend the broadcasting licence for the English-language commercial radio station CKEA-FM Edmonton, Alberta by deleting its condition of service¹ relating to content category 3 (Special Interest Music).

Application

1. 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.
2. Harvard Broadcasting Inc. (Harvard Broadcasting) filed an application to amend the broadcasting licence of the English-language commercial radio station CKEA-FM Edmonton, Alberta, by deleting its condition of service relating to content category 3 (Special Interest Music).
3. Specifically, Harvard Broadcasting requested the deletion of condition of service 3 set out in the appendix to Broadcasting Decision 2023-112, which reads as follows:
 3. The licensee shall devote at least 15% of all musical selections broadcast each broadcast week to selections drawn from content category 3 (Special Interest Music).
4. The licensee submitted that this condition of service hinders CKEA-FM from offering an optimal mix of programming to its target audience and has contributed to the station's poor financial performance since it launched in 2010.

¹ With the coming into force of the amended *Broadcasting Act*, this condition of licence has become (i.e., is now "deemed to be") condition of service imposed by order under section 9.1 of the current *Broadcasting Act*.

5. Further, the licensee indicated that no other mainstream commercial radio stations in the Edmonton market are subject to this type of requirement, which puts CKEA-FM at a significant disadvantage.
6. The Commission did not receive any interventions in regard to this application.

Background

7. In Broadcasting Decision 2008-288, the Commission approved CKEA-FM's licence as part of a competitive process in which it examined 14 applications to serve Edmonton. The Commission noted at the time that Harvard Broadcasting's station would make a substantial contribution to the musical diversity in the Edmonton radio market by devoting a minimum of 15% of all of its musical selections to music from content category 3 (Special Interest Music).
8. In Broadcasting Decision 2015-391 the Commission denied Harvard Broadcasting's application to be relieved from its requirements regarding the broadcast of musical selections from content category 3. The Commission noted that the station was in its first licence term and that, as a general rule, it expects an applicant that is awarded a licence as part of a competitive process to maintain its programming commitments for at least the first licence term.
9. Further, in that licence term, the licensee was found in non-compliance with the condition of service that it was seeking to change, as it devoted only 10.36% of its musical selections to Special Interest Music. The Commission reiterated that, as indicated in Broadcasting Information Bulletin 2014-608, the Commission's general practice is to deny an application for a licence amendment when it is directly linked to an instance of non-compliance.
10. In Broadcasting Decision 2023-112, the Commission found Harvard Broadcasting in compliance with all its regulatory requirements and renewed their broadcasting licence for a term of seven years.

Issues

11. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:
 - whether the station is in compliance with its condition of service relating to the broadcast of musical selections from content category 3 (Special Interest Music);
 - whether there is an economic need to justify the requested amendment;
 - whether approval of the application would have an undue financial impact on incumbent stations; and
 - whether approval of the application would undermine the integrity of the Commission's licensing process.

Compliance with condition of service related to content category 3

12. In Broadcasting Decision 2023-112, the Commission renewed CKEA-FM's licence for a licence term of seven years, given that the licensee was in compliance with all of its regulatory obligations.
13. During the licence renewal process, a performance evaluation of CKEA-FM's programming was conducted for the 3-9 October 2021 broadcast week, which found that the licensee devoted 17% of the broadcast week to musical selections from content category 3, exceeding the requirement of its condition of service by 2%.
14. In light of the above, the Commission finds that the licensee is in compliance with its condition of service relating to the broadcast of musical selections from content category 3.

Economic need

15. The applicant indicated that the financial struggles it has encountered since its launch in 2010 directly stems from its inability to offer a coherent music format due to obligations relating to content category 3 music. As a result, it deems this proposed amendment is necessary to increase its listenership and profitability to ensure the viability of the station.
16. The Commission notes that the deletion of the condition of service would provide CKEA-FM with more flexibility to adapt the programming to audience preference and improve its financial position.
17. The Commission also notes that stations that have had similar requirements lifted via Commission decision, typically saw their financial position improve following the release of the decision.
18. In light of the above, the Commission finds that the licensee has demonstrated a compelling economic need for the proposed amendment.

Economic Impact on incumbent stations

19. Edmonton is the capital city of Alberta and the fifth-largest city in Canada. Currently, there are 20 commercial radio stations operating in Edmonton, which includes CKEA-FM.
20. In 2022 the commercial radio market in Edmonton achieved profitability and is seeing an increase in local advertising revenues since 2021.
21. The Commission notes that Harvard Broadcasting's projected total increase in revenues in the next three years would represent a negligible share of the market's total advertising revenues in the Edmonton market.
22. Additionally, this application did not receive any opposing interventions from licensees of incumbent stations.
23. In light of the above, the Commission finds that approval of the application would not have an undue financial impact on incumbent stations.

Integrity of the Commission's licensing process

24. As noted in paragraph 10, CKEA-FM is in compliance with its condition of service relating to the broadcast of content category 3 music (Special Interest Music).
25. In the past, the Commission has approved applications to delete conditions of service relating to music from content category 3 where the licensees were in compliance and provided an economic need for such an amendment.²
26. The Commission notes that content category 3 music would still be available in the Edmonton market through other stations and that Harvard Broadcasting would still be subject to its condition of service requiring the station to devote a minimum of 40% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.
27. In light of the above, the Commission finds that approval of the proposed amendment would not undermine the Commission's licensing process.

Conclusion

28. In light of all of the above, the Commission **approves** the application by Harvard Broadcasting Inc. to delete CKEA-FM Edmonton's condition of service relating to content category 3 (Special Interest Music).

Secretary General

Related documents

- *CFWF-FM Regina, CKEA-FM Edmonton, CKEX-FM Red Deer and CKIK-FM Red Deer – Licence renewals*, Broadcasting Decision CRTC 2023-112, 18 April 2023
- *CKHY-FM and CKHZ-FM Halifax – Acquisition of assets and licence amendments*, Broadcasting Decision CRTC 2021-140, 26 April 2021
- *CISO-FM Orillia – Licence amendment*, Broadcasting Decision CRTC 2020-181, 5 June 2020
- *CHLX-FM Gatineau – Licence amendment*, Broadcasting Decision CRTC 2017-218, 27 June 2017
- *CKEA-FM Edmonton - Licence renewal and amendment*, Broadcasting Decision CRTC 2015-391, 21 August 2015
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014

² See Broadcasting Decisions 2021-140, 2020-181 and 2017-218.

- *Licensing of new radio stations to serve Edmonton, Alberta*, Broadcasting Decision CRTC 2008-288, 17 October 2008

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-316

Conditions of service and expectations for the English-language commercial radio programming undertaking CKEA-FM Edmonton, Alberta

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 as 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*.³
3. The licensee shall, as an exception to the percentage of Canadian musical selections set out in subsections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), in any broadcast week:
 - devote, in that broadcast week, a minimum of 40% 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 the period from Monday to Friday of the same broadcast week, 40% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category,” and “musical selection” shall have the meanings set out in the Regulations.

Expectations

Cultural diversity

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

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

³ 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*.

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.