



Broadcasting Decision CRTC 2024-27

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Reference: 2023-129

Ottawa, 9 February 2024

Maritime Broadcasting System Limited
Sussex, New Brunswick

Public record: 2023-0084-6

Public hearing in the National Capital Region
6 July 2023

CJCW Sussex – Conversion to the FM band

Summary

The Commission **approves** an application by Maritime Broadcasting System Limited for a broadcasting licence to operate an English-language commercial FM radio station in Sussex, New Brunswick, to replace its English-language commercial AM radio station CJCW Sussex.

The Commission proposes to make the orders set out in Appendix 2 to this decision imposing various conditions of service on the licensee. Consistent with subsection 9.1(4) of the *Broadcasting Act*, interested persons may make representations only on the proposed orders by no later than **19 February 2024**. The licensee may submit a reply to any representations received by no later than **26 February 2024**.

Application

1. Maritime Broadcasting System Limited (MBS) filed an application for a broadcasting licence to operate an English-language commercial FM radio station in Sussex, New Brunswick, to replace its English-language commercial AM radio station CJCW Sussex.
2. MBS is owned by 4284445 Canada Inc., its sole shareholder, which is solely owned by Green Radio Limited. Robert L. Pace is the sole owner of Green Radio Limited and as a result exercises effective control over MBS through holding companies. Given that Robert L. Pace is Canadian, MBS is eligible to hold a broadcasting licence pursuant to the *Direction to the CRTC (Ineligibility of Non-Canadians)*.¹

¹ SOR/97-192, 8 April 1997.

3. The proposed FM station would operate at 92.9 MHz (channel 225A) with an average effective radiated power (ERP) of 723 watts (maximum ERP of 1.4 kilowatts) and an effective height of the antenna above average terrain (EHAAT) of 97.6 metres.²
4. MBS submitted that converting the station from the AM to the FM band would provide a superior signal to its listeners and advertisers in the area currently served by the AM station.
5. The applicant proposes to continue with its current Adult Contemporary format for the new FM station. Of the 126 hours of programming broadcast on the station each broadcast week, 117 hours are devoted to local programming and the remaining nine hours are devoted to American syndicated weekend programming.
6. MBS will broadcast 70 minutes of pure news per broadcast week, of which 60 minutes would be devoted to local and regional news, five minutes to national news and five minutes to international news. Additionally, MBS confirmed that CJCW-FM will continue to report on local weather, regional festivals, sports activities, local charitable causes, and local events.
7. The Commission received no opposing interventions in regard to this application. However, it did receive one comment from an individual, which emphasized the significance of platforms for Canadian independent and multicultural musicians to showcase their talent, connect with audiences and cultivate their careers.

Issues

8. The Commission has the authority, pursuant to subsections 9(1), 9.1(1) and 11.1(2) 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*, and to make orders respecting expenditures.
9. 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 use of the proposed frequency would impact surrounding areas;
 - whether approval of the applicant's proposal would have an undue negative economic impact on incumbent stations in the market; and
 - whether the programming currently broadcast by CJCW would be maintained for Sussex.

² These technical parameters reflect those approved by the Department of Industry (also known as Innovation, Science and Economic Development Canada).

Proposed frequency

10. The Department of Industry (also known as Innovation, Science and Economic Development Canada) has granted conditional technical acceptability of the proposed station. As such, the applicant's proposal adheres to the rules governing FM spectrum coordination.
11. The applicant proposed to operate the new FM radio station on 92.9 MHz (channel 225A). There are other frequencies available that could provide service to the areas proposed by the applicant, and no major surrounding markets would be impacted by the use of this frequency. Therefore, the applicant's proposed station would have a negligible impact on the availability of frequencies in Sussex and surrounding areas.
12. The proposed amendment would result in a reduction in the area covered by the station's primary contour given the existing AM station's primary daytime contour (15 mV/m) is larger than the proposed FM station's primary contour (3 mV/m). Therefore, some communities currently served by the applicant's AM station may lose access to the signal. However, some may continue to receive a quality signal depending on their location, as they fall within the proposed secondary 0.5 mV/m contour of the proposed FM station.
13. In light of the above, the Commission finds that the use of 92.9 MHz would have minimal impact on the availability of frequencies in Sussex and surrounding areas.

Economic impact on incumbent stations

14. The applicant did not submit an economic need for the application. Rather, the applicant stated that they seek to provide listeners and advertisers with a superior quality audio signal on the FM band resulting in a projected modest increase in local advertising revenues.
15. CJCW is currently licensed to serve Sussex. The proposed contours of CJCW-FM would be limited to the Sussex market and would therefore not be permitted to enter a market it is not presently licenced to serve as an AM station.
16. Finally, the Commission did not receive any opposing interventions in regard to this application.
17. In light of the above, the Commission finds that approval of this application would not have an undue economic impact on incumbent stations in the market.

Maintaining the programming currently broadcast in Sussex by the AM station

18. In Broadcasting Public Notice 2008-4, the Commission indicated that the Canadian broadcasting system should ensure that audiences have access to a diversity of programming, especially local, regional and national content.

19. As noted above, MBS does not propose any changes to the current programming broadcast on CJCW. The proposed new FM station would broadcast 126 hours of programming each broadcast week, 117 hours of which would be devoted to local programming and the remaining nine hours would be devoted to American syndicated weekend programming.
20. In regard to the new FM station's pure news offering, MBS proposed to broadcast 70 minutes of pure news per broadcast week, of which 60 minutes would be devoted to local and regional news, five minutes to national news and five minutes to international news. Additionally, MBS confirmed that CJCW would continue to report on local weather, regional festivals, sports activities, local charitable causes, and local events.
21. In light of the above, the Commission finds that approval of the application would maintain the Sussex community programming currently broadcast by the AM station CJCW and would maintain local reflection and programming diversity in the Sussex market.
22. Nevertheless, given that some communities will lose access to the service following the conversion, the Commission expects the licensee to notify listeners of those affected communities that they will, or may, lose service as of a specific date to be identified by the station.

Conclusion

23. In light of all of the above, the Commission **approves** the application by Maritime Broadcasting System Limited for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Sussex, New Brunswick, to replace its English-language commercial AM radio station CJCW Sussex. The licence will expire **31 August 2030**.
24. The terms of licence and expectations applicable to this licensee are set out in Appendix 1 to this decision.
25. The Commission notes that 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.
26. The Commission also proposes to make certain orders pursuant to subsection 9.1(1) of the *Broadcasting Act*. The specifics of the conditions of service contained in these orders are described below and set out in Appendix 2. Consistent with subsection 9.1(4), interested persons may make representations only on the proposed orders by no later than **19 February 2024**, and the licensee may submit a reply to any representations received by no later than **26 February 2024**. The Commission will issue final orders following the close of the comment period and its review of the submissions of the parties, if any.

27. Interested persons who wish to make representations on the proposed orders may do so on the Commission's [public proceedings webpage](#).
28. Further, consistent with the licensee's request and pursuant to paragraph 9(1)(f) and subsection 24(1) of the *Broadcasting Act*, the Commission **revokes** the licence for CJCW effective at the end of the simulcast period.

The proposed orders

Standard conditions of service

29. There are standard conditions of service that apply to all undertakings of a particular class. In this case, the Commission considers it appropriate that the licensee should adhere to the standard conditions of service for commercial radio stations. The standard conditions of service are set out in the appendix to Broadcasting Regulatory Policy 2022-334.
30. Further, 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*. The Commission considers it appropriate to require the licensee to also adhere to these as conditions of service.
31. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **proposes to order** Maritime Broadcasting System Limited, by **condition of service**, to adhere to the standard conditions of service set out in the appendix to Broadcasting Regulatory Policy 2022-334, as well as to all applicable requirements set out in the *Radio Regulations, 1986* (the Regulations), that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.

Broadcast of emergency alerts

32. The purpose of the emergency alerting framework set out in Broadcasting Regulatory Policy 2014-444 is to ensure that alerts are available to as many Canadians as possible. In that policy, the Commission stated that the full participation of the broadcasting industry is important for the National Public Alerting System (NPAS) to be effective in safeguarding and warning Canadians.
33. The Commission has implemented obligations in respect of the broadcast of emergency alerts. For reference, see section 16 of the Regulations as well as Broadcasting Regulatory Policy 2014-444. Compliance involves implementing the public alerting system for each of the licensee's transmitters, and ensuring that any alert broadcast decoders (e.g., ENDEC) used for the purposes of broadcasting emergency alert messages be installed and programmed to properly account for the applicable contour (as set out in paragraph 16(2)(b) of the Regulations) of the station as well as that of any rebroadcasting transmitter that may appear on the licence for that station.

34. Further to these obligations, the Commission considers it appropriate that the licensee be required to implement the NPAS in the manner set out in the Regulations by the date of the station's launch and to file a letter attesting to the implementation of the NPAS.
35. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **proposes to order** Maritime Broadcasting System Limited, by **condition of service**, to implement the NPAS **by the station's launch** and to make the appropriate associated information filings.

Simulcast period and revocation of AM licence

36. The applicant sought authority to simulcast the programming of the new FM station on its existing AM station for a transition period of three months and requested that the Commission revoke its licence at the end of the simulcast period.
37. The Commission notes that some communities will lose the AM signal and not receive the new FM signal following the transition period. The applicant should notify those affected communities.
38. In light of the above, and pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **proposes to impose an order** on the licensee authorizing it, by **condition of service**, to simulcast the programming of the new FM station on CJCW Sussex, New Brunswick, for a transition period of three months following the commencement of operations of the FM station.

Canadian content development contributions

39. As set out in Broadcasting Regulatory Policy 2006-158, applicants for new commercial radio licences may wish to make Canadian Content development (CCD) contributions over and above the basic annual CCD contributions. While MBS did not propose any discretionary over-and-above CCD contributions, it proposed to continue its Canadian Talent Initiative, a long-running campaign that encourages recording artists to submit their original music, biographical information and details on where their music can be purchased. The recipients receive radio advertising worth \$500. The Commission commends MBS for this positive initiative to support artists and provide them with increased exposure.

Employment equity

40. Because MBS is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Employment and Social Development (also known as Employment and Social Development Canada), its employment equity practices are not examined by the Commission.

Reminders

Local news

41. Radio stations are an important daily source of local news and information for communities. Carrying on a broadcasting undertaking 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.
42. 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 applicant 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 applicant to ensure that a reasonable amount of daily local news and information is made available to those communities.

Secretary General

Related documents

- *Revised conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2022-334, 7 December 2022
- *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022
- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014
- *Diversity of Voices – Regulatory policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

This decision is to be appended to the licence.

Appendix 1 to Broadcasting Decision CRTC 2024-27

Terms and expectations for the English-language commercial FM radio programming undertaking in Sussex, New Brunswick

Terms

The licence will expire 31 August 2030.

The station will operate at 92.9 MHz (channel 225A) with an average effective radiated power (ERP) of 723 watts (maximum ERP of 1.4 kilowatts) and an effective height of the antenna above average terrain (EHAAT) of 97.6 metres.

Pursuant to subsection 22(1) of the *Broadcasting Act*, no licence may be issued until 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.

Furthermore, the Commission will only issue a licence for this undertaking once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be in operation by no later than **9 February 2026**. To request an extension, the applicant must submit a written request to the Commission at least 60 days before that date, using the form available on the Commission's website.

Expectations

Notification of impact of conversion of the AM station to the FM band

The Commission expects the licensee to notify listeners of the communities that will be affected by the loss of service due to the amended service area of the new FM station, that they will, or may, lose service as of a specific date determined by the station.

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 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.

Appendix 2 to Broadcasting Decision CRTC 2024-27

Proposed conditions of service for the English-language commercial FM radio programming undertaking in Sussex, New Brunswick

The Commission proposes to make orders imposing the following conditions of service on Maritime Broadcasting System Limited in respect of the new English-language commercial FM radio programming undertaking in Sussex, New Brunswick, pursuant to subsection 9.1(1) of the *Broadcasting Act*.

Conditions of service

1. The licensee shall adhere to the conditions of service set out in the appendix to *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*.
3. The licensee is authorized to simulcast the programming of the new commercial FM station on CJCW Sussex, New Brunswick, for a transition period of three months following the commencement of operations of the FM station.
4. The licensee shall implement the National Public Alerting System (NPAS) **by the station's launch** in the manner set out in section 16 of the *Radio Regulations, 1986*, and in *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014.

The licensee shall file a letter with the Commission to attest to the implementation date of its NPAS within **14 days after installation of the alerting equipment**. This letter must also contain evidence that the system is properly configured to receive and distribute alerts from the National Alert Aggregation and Dissemination System (e.g. an attestation by a CEO, president or person exercising a similar supervisory role in the licensee's operations, as to the installation of functioning alerting equipment).