



Broadcasting Decision CRTC 2021-247

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Reference: 2021-165

Ottawa, 2 August 2021

Acadia Broadcasting Corporation

Various locations across Ontario, New Brunswick and Nova Scotia

Public record for this application: 2021-0087-4

Public hearing in the National Capital Region

8 July 2021

Various radio programming undertakings – Acquisition of assets (corporate reorganization)

The Commission **approves** an application by Acadia Broadcasting Corporation, on behalf of Acadia Broadcasting Limited, for authority to acquire the assets of all the licensed broadcasting undertakings owned by Acadia Broadcasting Limited.

Application

1. Acadia Broadcasting Corporation (Acadia), on behalf of Acadia Broadcasting Limited (Acadia Limited), filed an application for authority to acquire, as part of a corporate reorganization, the assets of all the licensed broadcasting undertakings owned by Acadia Limited. The complete list of undertakings is set out in Appendix 1 to this decision. Acadia also requested new broadcasting licences to continue the operation of the undertakings under the same terms and conditions as those in effect under the current licences.
2. Acadia is a corporation jointly and ultimately controlled by John K. F. Irving through his holding company Black-Tip Investments Limited (50%) and Anne C. I. Oxley through her holding company Rosa Rugosa Investments Limited (50%), both of whom are Canadian, satisfying the *Direction to the CRTC (Ineligibility of Non-Canadians)*, SOR/97-192.
3. Following the close of the transaction, Acadia would become the licensee of all the licensed broadcasting undertakings currently owned by Acadia Limited.
4. The Commission did not receive any interventions in regard to this application.

Regulatory framework

5. Pursuant to subsection 5(1) of the *Broadcasting Act* (the Act), the Commission's mandate is to regulate and supervise all aspects of the Canadian broadcasting system in the public interest. The public interest is reflected in the numerous objectives of the Act and of the Canadian broadcasting policy set out in subsection 3(1) of the Act. The review of ownership

transactions in the public interest forms part of the Commission's regulatory and supervisory mandate under the Act.

6. As set out in Broadcasting Information Bulletin 2008-8-2, a transaction involving the acquisition of the assets of an undertaking requires the issuance of a new broadcasting licence for the undertaking since broadcasting licences are not transferable.
7. The Commission has the authority, pursuant to subsection 9(1) of the Act, to issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the Act, as well as to amend those conditions.

Issues

8. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:
 - whether the transaction is in the public interest;
 - compliance with regulatory obligations; and
 - the length of the new licence terms.

Public interest

9. This transaction involves a corporate reorganization that will not result in a change in effective control. Further, Acadia requested to operate the radio stations involved under the same terms and conditions as those currently in effect.
10. The Commission also notes that Acadia intends to pay the remaining tangible benefits stemming from the acquisition of CKHY-FM and CKHZ-FM Halifax approved in Broadcasting Decision 2021-140.
11. Therefore, the Commission considers that the approval of the transaction would have no impact on the Canadian broadcasting system.

Non-compliance

12. Pursuant to subsection 15(2) of the *Radio Regulations, 1986* (the Regulations) commercial radio station licensees with total revenues over \$1,250,000 are required to contribute annually to Canadian content development (CCD). Subsection 15(5) of the Regulations further requires these licensees to devote at least 15% of their basic annual CCD contributions to the Community Radio Fund of Canada (CRFC).
13. According to Commission records, CJLS-FM Yarmouth and CKBW-FM Bridgewater did not make CCD contributions to the CRFC during the 2018-2019 broadcast year. Commission

records indicate that the shortfall of \$405 was received by the CRFC in August 2020, nearly a year later.

14. Acadia submitted that the CRFC contributions were inadvertently overlooked during the 2018-2019 broadcast year. The shortfall came to light when Acadia Limited was preparing its returns the following year. Acadia stated that Acadia Limited voluntarily paid the required amount to the CRFC once it discovered the oversight. In addition, Acadia indicated that it implemented procedures requiring CCD contributions to be reviewed not only by the station manager but also by the President and the Controller.
15. In response to a letter from the Commission, Acadia indicated that it was prepared to make additional contributions in the same amount as the shortfalls, should the Commission require the payment of additional CCD contributions.
16. As set out in Broadcasting Information Bulletin 2014-608, the Commission's approach to non-compliance by radio stations is to evaluate each instance of non-compliance in its context and in light of factors such as the number, recurrence and seriousness of the instances of non-compliance. The circumstances leading to the non-compliance, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
17. The Commission finds the licensee in non-compliance with subsection 15(5) of the Regulations for CJLS-FM and CKBW-FM. However, the Commission is satisfied with the steps the applicant has taken to address the situation and considers that no remedial measures need be imposed.

Length of licence terms

18. The Commission notes that the broadcasting licences for the following six radio stations will expire in 2022 and 2023:
 - CFOB-FM Fort Francis
 - CJUK-FM Thunder Bay
 - CKTG-FM Thunder Bay
 - CKDR-FM Dryden
 - CJHK-FM Bridgewater
 - CKBW-FM Bridgewater
19. The Commission conducted a review of the stations' compliance with their regulatory obligations as part of this proceeding. Given that no instances of non-compliance were found relating to these stations, the Commission will issue full-term licences for these six stations. The new licences will expire 31 August 2027. All the other stations involved in this transaction will have the same terms as set those out in their current licences.

Conclusion

20. In light of all the above, the Commission **approves** the application by Acadia Broadcasting Corporation, on behalf of Acadia Broadcasting Limited, to acquire the assets of all the licensed broadcasting undertakings currently owned by Acadia Limited, and for new broadcasting licences to continue the operation of the undertakings.
21. Acadia shall notify the Commission of the close of the transaction, and upon surrender of the current licences held by Acadia Limited, the Commission will issue new broadcasting licences to Acadia. The terms and **conditions of licence** applicable to the new licensee are set out in Appendix 2 to this decision.

Reminders

22. It is important that radio station licensees make their required contributions to CCD, given that CCD initiatives not only help to develop and advance the careers of emerging Canadian artists, but increase the supply of high-quality Canadian music in a variety of genres and the demand for Canadian music by listeners. The non-payment of CCD contributions therefore has the potential to cause harm to the Canadian broadcasting system. It is incumbent upon licensees to provide, by the required deadlines, proof of payment to such initiatives. They must also provide sufficient documentation to support the eligibility of their contributions. Failure to do so may result in the Commission finding a contribution ineligible, which in turn may affect a station's compliance with regulatory obligations. Moreover, licensees must ensure that expenditures are not self-serving – that is, beneficiaries must be independent of licensees.
23. The Commission reminds the licensee that it must pay any remaining tangible benefits stemming from the ownership transaction approved in Broadcasting Decision 2021-140. As noted in that decision, all discretionary amounts from those tangible benefits, which amount to 1% of the value of the transaction, must be allocated to parties and initiatives fulfilling the definition of eligible initiative set out in paragraph 108 of Broadcasting Public Notice 2006-158. Further, the licensee must file by 30 November following the end of the each broadcast year, in a form deemed acceptable by the Commission, proof of payment of the tangible benefits paid each broadcast year.
24. Pursuant to section 22 of the Act, the broadcasting licences approved in this decision will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Secretary General

Related documents

- *CKHY-FM and CKHZ-FM Halifax – Acquisition of assets and licence amendments*, Broadcasting Decision CRTC 2021-140, 26 April 2021
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014

- *A guide to the CRTC application process for changes in effective control and certain transfers of shares of broadcasting undertakings as well as for the acquisition of assets of broadcasting undertakings – Change in the manner of issuing related information bulletins*, Broadcasting Information Bulletin CRTC 2008-8-2, 6 December 2013
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

This decision is to be appended to each licence.

Appendix 1 to Broadcasting Decision CRTC 2021-247

Radio programming undertakings acquired by Acadia Broadcasting Corporation in this decision

English-language commercial radio stations and rebroadcasting transmitters

Province	Call sign / Location
Ontario	CFOB-FM Fort Frances and its transmitter CFOB-FM-1 Atikokan CJRL-FM Kenora CJUK-FM Thunder Bay CKDR-2-FM Sioux Lookout and its transmitters CKDR-FM-1 Ignace and CKDR-FM-3 Hudson CKDR-5-FM Red Lake and its transmitter CKDR-FM-4 Ear Falls CKDR-FM Dryden CKTG-FM Thunder Bay
New Brunswick	CHSJ-FM Saint John CHTD-FM St. Stephen CHWV-FM Saint John CKNI-FM Moncton
Nova Scotia	CIGO-FM Port Hawkesbury CJHK-FM Bridgewater CJLS-FM Yarmouth and its transmitters CJLS-FM-1 New Tusket, CJLS-FM-2 Barrington and CJLS-FM-3 Yarmouth CKBW-FM Bridgewater and its transmitters CKBW-FM-1 Liverpool and CKBW-FM-2 Shelburne CKHY-FM Halifax CKHZ-FM Halifax

Appendix 2 to Broadcasting Decision CRTC 2021-247

Term, conditions of licence and expectation for the English-language commercial radio programming undertakings listed in Appendix 1

Term for CJRL-FM Kenora, Ontario; CHSJ-FM Saint John, New Brunswick; CIGO-FM Port Hawkesbury and CJLS-FM Yarmouth and its transmitters CJLS-FM-1 New Tusket, CJLS-FM-2 Barrington and CJLS-FM-3 Yarmouth, Nova Scotia

The licences will expire 31 August 2024.

Term for CKHY-FM Halifax and CKHZ-FM Halifax, Nova Scotia; and CKNI-FM Moncton, New Brunswick

The licences will expire 31 August 2026.

Term for CHTD-FM St. Stephen and CHWV-FM Saint John, New Brunswick; CFOB-FM Fort Francis and its transmitter CFOB-FM-1 Atikokan, CJUK-FM Thunder Bay, CKTG-FM Thunder Bay, CKDR-2-FM Sioux Lookout and its transmitters CKDR-FM-3 Hudson and CKDR-FM-1 Ignace, CKDR-5-FM Red Lake and its transmitter CKDR-FM-4 Ear Falls, and CKDR-FM Dryden, Ontario; CJHK-FM Bridgewater and CKBW-FM Bridgewater, Nova Scotia

The licences will expire 31 August 2027.

Conditions of licence applicable to all stations

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, with the exception of condition of licence 8 relating to single-station markets for CKDR-2-FM Sioux Lookout and CKDR-5-FM Red Lake, as well as to the conditions set out in the broadcasting licence for the undertaking.

Condition of licence applicable to CHSJ-FM Saint John

2. The licensee shall not solicit advertising in the Fredericton market.

Condition of licence applicable to CKNI-FM Moncton

3. To fulfill its outstanding commitments to Canadian content development (CCD) set out in the appendix to *CKNI-FM Moncton – Acquisition of assets and licence amendments*, Broadcasting Decision CRTC 2014-116, 14 March 2014, the licensee shall, in addition to the basic annual contribution to CCD set out in section 15 of the *Radio Regulations, 1986*, make a contribution of \$8,572 to the promotion and development of Canadian content by no later than 31 August 2021 (i.e., the end of the 2020-2021 broadcast year). Of this amount, not less than 20% shall be devoted to FACTOR or Musicaction. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Condition of licence applicable to CKHY-FM Halifax

4. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(8) of the *Radio Regulations, 1986* (the Regulations), as amended from time to time, 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 and schedule them in a reasonable manner throughout each broadcast day.

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

Condition of licence applicable to CKHZ-FM Halifax

5. As an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), the licensee shall devote to Canadian selections broadcast in their entirety:
 - a. at least 40% of its musical selections from content category 2 (Popular Music) to Canadian selections in each broadcast week; and
 - b. at least 40% of its musical selections from content category 2 between 6 a.m. and 6 p.m. in any period beginning on Monday of a week and ending on Friday.

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

Expectation

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