



## Broadcasting Decision CRTC 2021-335

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Reference: Part 1 application posted on 7 January 2020

Ottawa, 4 October 2021

**Sur Sagar Radio Inc.**  
Surrey, British Columbia

*Public record for this application: 2019-1263-4*

### **VF2689 Surrey – Request for relief from reporting requirements and for the rescission of a mandatory order**

The Commission **approves in part** an application by Sur Sagar Radio Inc. in regard to relief from reporting requirements for the exempt, low-power house of worship radio station VF2689 Surrey, British Columbia.

Specifically, the Commission **approves** the applicant's request for relief from the reporting requirements set out in paragraph 50 of Broadcasting Decision 2016-414.

However, the Commission **denies** the applicant's request for the rescission of Broadcasting Mandatory Order 2016-417, set out in Appendix 3 to Broadcasting Decision 2016-414.

### **Background**

1. In 2015, the Commission received a complaint from South Asian Broadcasting Corporation Inc. (South Asian Broadcasting), licensee of the commercial ethnic radio station CKYE-FM Vancouver, British Columbia, alleging that Surrey Myfm Inc. (Surrey Myfm) was operating VF2689 Surrey, British Columbia, as an unauthorized commercial ethnic FM radio station, rather than as an exempt tourist information radio station as claimed by Surrey Myfm. The Commission investigated the complaint and also examined other entities in the Surrey/Vancouver area claiming to operate their services as exempt low-power radio stations. One of the additional stations examined was VF2688 Surrey, an FM radio station operated by Sur Sagar Radio Inc. (Sur Sagar), who purported to operate the station as an exempt low-power house of worship radio station. At the time, both VF2688 and VF2689 were owned and controlled by Ravinder Singh Pannu.
2. In Broadcasting Decisions 2016-414 and 2016-421, the Commission found that Surrey Myfm and Ravinder Singh Pannu for VF2689 (which was operating at frequency 106.9 MHz), and Sur Sagar and Ravinder Singh Pannu for VF2688 (which was operating at frequency 91.5 MHz), had not been broadcasting on their respective stations in accordance with the terms of the applicable exemption orders (for VF2689, Broadcasting Order 2014-447, set out in Appendix 4 to Broadcasting Regulatory Policy 2014-444; for VF2688, Broadcasting Order 2013-621). The Commission therefore found that they had

been operating broadcasting undertakings in Canada without licences, in contravention of the *Broadcasting Act* (the Act). As a result, the Commission issued several mandatory orders relating to the programming and operation of the stations, pursuant to subsection 12(2) of the Act.<sup>1</sup> The Commission also directed the operators of those exempt undertakings to submit, among other documents that included submission deadlines, self-monitoring reports on a quarterly basis detailing technical issues encountered and how each station is operating with the technical requirements of the respective exemption orders for that quarter.<sup>2</sup>

3. Subsequently, in Broadcasting Decision 2016-464, the Commission approved an application by Akash Broadcasting Inc. (Akash Broadcasting) for a broadcasting licence to operate a new ethnic commercial specialty FM radio station to serve Surrey, which would launch as CJCN-FM Surrey and operate on frequency 91.5 MHz. As a result, and in accordance with *BPR-3: Application Procedures and Rules for FM Broadcasting Undertakings*, the low-power house of worship station VF2688 was required to vacate that frequency.
4. In August 2017, following the cessation of the operation of the tourist information station VF2689, the house of worship radio station VF2688 changed frequencies from 91.5 MHz to 106.9 MHz and started using the call sign VF2689. The reporting requirements for the tourist information station VF2689, set out in paragraph 50 of Broadcasting Decision 2016-414 and Broadcasting Mandatory Order 2016-417, continued to apply to Sur Sagar and Ravinder Singh Pannu going forward for the house of worship radio station VF2689. Since then, VF2689 has been operating at 106.9 MHz (channel 295LP) with an average effective radiated power of 41 watts (with an effective height of antenna above average terrain of 52 metres).

## Application

5. Sur Sagar, which is owned and controlled by Ravinder Singh Pannu, filed an application in which it requested relief from the reporting requirements for the house of worship radio station VF2689 set out in paragraph 50 of Broadcasting Decision 2016-414, specifically in regard to the above-noted quarterly self-monitoring reports.
6. The applicant further requested that the Commission rescind Broadcasting Mandatory Order 2016-417, set out in Appendix 3 to Broadcasting Decision 2016-414, which orders the operator, pursuant to subsection 12(2) of the Act, to submit reports relating to the programming and operation of VF2689, as set out in Broadcasting Decision 2016-414 and as may be requested by the Commission from time to time.

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<sup>1</sup> Broadcasting Mandatory Orders 2016-415, 2016-416, 2016-417 and 2016-418 apply to Surrey Myfm and Ravinder Singh Pannu. However, the reporting requirements in Broadcasting Mandatory Order 2016-417 are directed at the operations of a specific station, namely, VF2689. Similarly, Broadcasting Mandatory Orders 2016-422, 2016-423 and 2016-424 apply to Sur Sagar and Ravinder Singh Pannu and the reporting requirements in Broadcasting Mandatory Order 2016-424 are directed at the operations of VF2688.

<sup>2</sup> For VF2689, see paragraph 50 of Broadcasting Decision 2016-414; for VF2688, see paragraph 35 of Broadcasting Decision 2016-421.

7. Sur Sagar submitted that it has been diligent and consistent in submitting self-monitoring reports on a quarterly basis as directed in Broadcasting Decision 2016-414, and as ordered by the Commission in Broadcasting Mandatory Order 2016-417. It added that the mandatory order requiring it to submit reports has resulted in hardships for Ravinder Singh Pannu, who runs a small operation with minimal staff. Sur Sagar indicated that it understands the importance of the Commission's role in regulating all undertakings large and small and that it undertakes to follow all regulations going forward.

### **Interventions and reply**

8. The Commission received an intervention in opposition to Sur Sagar's application from Akash Broadcasting, as well as a joint intervention in opposition from South Asian Broadcasting (licensee of CKYE-FM and its transmitter CKYE-FM-1 Surrey) and I.T. Productions Ltd. (I.T. Productions), licensee of the ethnic radio station CJRJ Vancouver. Sur Sagar replied separately to each of the interventions.
9. Akash Broadcasting submitted that due to the gravity of the situation and the seriousness of the offences committed by the operators of VF2689, the mandatory orders imposed in Broadcasting Decision 2016-414 should remain in place to reinforce compliance with the Act. It added that compliance should be reviewed in 2023, seven years after the mandatory orders were issued.
10. In their joint intervention, South Asian Broadcasting and I.T. Productions submitted that in both 2015 and 2016, their stations experienced the negative impact of the non-compliant operation of "licence exempt" radio stations, two of which were operated by Ravinder Singh Pannu. They further submitted that Sur Sagar has not provided any evidence of its alleged "hardships."
11. These interveners also questioned whether Ravinder Singh Pannu exercises control of VF2689. In this regard, they noted that at the 2016 hearing, Ravinder Singh Pannu acknowledged that a priest who is not an employee of Sur Sagar exercised "day-to-day" control over the operations of VF2688 (now VF2689). They argued that it was clear from the 2016 public hearing that Ravinder Singh Pannu did not have any staff devoted to or overseeing the operation of that house of worship radio station, and had delegated effective control of its programming and operations to a priest. The interveners added that it is also clear from the public hearing transcript that elements of the programming did not conform to the exemption order.
12. South Asian Broadcasting and I.T. Productions also expressed concern over the possibility that Ravinder Singh Pannu could reinstate the "tourist radio" service on 106.9 MHz, without any public discussion or oversight, should Broadcasting Mandatory Order 2016-417 be rescinded. They argued that based on the exhaustive public record, it is possible that Ravinder Singh Pannu could, in the absence of a mandatory order, "push the envelope" again vis-a-vis the definition of permissible programming content, without any effective oversight by the Commission.

13. In its replies to the interventions, Sur Sagar submitted that it has shown respect for the process and has complied with the mandatory requirements. It stated that it has worked very diligently to return to the good graces of the regulator, and that it takes its responsibilities seriously as evidenced by its compliance with the orders imposed. Sur Sagar added that mandatory orders, by their nature, are intended as impositions placed on an operator to ensure ongoing compliance. It characterized such impositions as a “hardship” as they place the operator under a cloud of regulatory misdeeds. In Sur Sagar’s view, the time has come to rescind Broadcasting Mandatory Order 2016-414.
14. In regard to the interveners’ doubts as to whether Ravinder Singh Pannu exercises control of VF2689, Sur Sagar stated that it is fully capable of monitoring the technical operations of the station from anywhere in the world with the current level of available technology. It submitted that although the programming is overseen by a priest, Ravinder Singh Pannu is the only one responsible for the selection of the programming. Sur Sagar added that there is plenty of responsibility and oversight into the operation of the station. In its view, the fact that its on-site partners are priests does not make them incapable of being good on-site managers.

### **Regulatory framework**

15. To broadcast in Canada, a broadcasting undertaking must have a licence or operate pursuant to an exemption. In this regard, subsection 9(4) of the Act requires the Commission to exempt any class of broadcasting undertaking from any or all of the requirements of Part II of the Act or any regulations where it is satisfied that compliance with those requirements will not contribute in a material manner to the implementation of the broadcasting policy for Canada set out in subsection 3(1) of the Act.
16. Broadcasting exemption orders establish the terms and conditions under which exempt undertakings must operate in order to be eligible to broadcast without a licence. Their purpose is to alleviate the regulatory burden on broadcasters and use fewer Commission resources for small, temporary or niche radio services that will have little impact on licensed broadcasters. However, these entities must at all times operate strictly within the terms set out in the exemption order pursuant to which they seek to operate. Further, it is the responsibility of the operator of the undertaking to ensure it is doing so. A failure to operate at all times under the terms of the exemption order means that the undertaking is broadcasting without a licence and without being exempt from the requirement to hold a licence, contrary to the Act.
17. The relevant exemption order in the current instance is the Exemption order for low-power radio programming undertakings providing programming that is derived solely from houses of worship (the House of Worship Exemption Order), the latest version of which is set out in Appendix 2 to Broadcasting Regulatory Policy 2018-137.

### **Commission’s analysis and decisions**

18. After examining the information provided on the public record for this application in light of applicable regulations and policies, the Commission has addressed the following issues:

- whether Sur Sagar and Ravinder Singh Pannu should be relieved of the reporting requirements for VF2689 set out in paragraph 50 of Broadcasting Decision 2016-414; and
- whether Broadcasting Mandatory Order 2016-417 should be rescinded.

### **Relief from reporting requirements**

19. When examining requests for relief from reporting requirements, the Commission generally expects the applicant to be in compliance with those requirements. The Commission may also give consideration to the particulars of an application and any relevant issues raised in interventions.
20. In regard to Sur Sagar's requested relief from the reporting requirements set out in paragraph 50 of Broadcasting Decision 2016-414, the Commission examined the following:
  - the applicant's compliance regarding the documentation to be filed as part of those reporting requirements; and
  - the undertaking's compliance with the programming criteria set out in the House of Worship Exemption Order.

### **Compliance with reporting requirements**

21. As part of the above-noted 2016 investigation, the Commission examined whether the operation of VF2688 and VF2689 met the technical requirements set out in the respective exemption orders. In Broadcasting Decision 2016-414, the Commission concluded that VF2689 was most likely operating outside of the authorized technical parameters before 5 April 2016 and that the procedures used by Surrey Myfm and Ravinder Singh Pannu in setting up and monitoring its equipment led to deficiencies in ensuring that the station was operating within its authorized technical parameters.
22. The Commission does not generally monitor radio stations to ensure that they are operating within their authorized technical parameters.<sup>3</sup> However, as a result of the finding that VF2689 was most likely operating outside of the authorized technical parameters, the Commission imposed reporting requirements on VF2689 to monitor the station's adherence to the technical requirements set out in the relevant exemption order.<sup>4</sup> In particular, in paragraph 50 of Broadcasting Decision 2016-414, the Commission directed Surrey Myfm and Ravinder Singh Pannu to submit the following:

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<sup>3</sup> The Department of Industry (Innovation, Science and Economic Development – ISSED) is responsible for ensuring a station's compliance with the operating parameters of its broadcasting certificate. Compliance is evaluated before issuing or renewing a certificate, or upon the receipt of a complaint.

<sup>4</sup> As noted above, these reporting requirements were later applied to Sur Sagar when it began operating VF2689 as a house of worship radio station.

- a field measurement report produced by a Canadian licensed professional engineer by 19 December 2016;
  - a self-monitoring plan by 19 December 2016, detailing the procedures and methods that will be used to ensure the station is operating within the technical requirements set out in the Exemption Order; and
  - self-monitoring reports on a quarterly basis detailing technical issues encountered and how the station is operating within the technical requirements of the Exemption Order for that quarter.
23. The Commission notes that the field measurement report and the self-monitoring plan were submitted by the prescribed 19 December 2016 deadline. In addition, the operator of VF2689 has also been filing self-monitoring reports on a quarterly basis as required. As such, all of the reporting requirements set out in paragraph 50 of Broadcasting Decision 2016-414 have been met to date. In addition, the submitted self-monitoring reports demonstrate that VF2689 has been operating within its authorized parameters since the issuance of Broadcasting Mandatory Order 2016-417.

#### **Compliance with the programming criteria of the House of Worship Exemption Order**

24. In the fall of 2019, Commission staff monitored the programming of VF2689 for the 29 September to 5 October 2019 broadcast week, and conducted a review of the station's compliance for that broadcast week with the programming criteria set out in the House of Worship Exemption Order. It concluded that the station appeared to be in compliance with the following programming criteria set out in that exemption order:
- 4. The programming provided by the undertaking consists solely of live local broadcasts of religious services, weddings, funerals, and other such religious celebrations and ceremonies.
  - 5. The programming provided by the undertaking contains no advertising material.
  - 6. The undertaking does not broadcast the programming of any other programming undertaking.
  - 7. The undertaking does not broadcast any musical selections unless they form an integral part of the religious ceremony being broadcast.
  - 8. The undertaking's programming complies with the guidelines on ethics for religious programming set out in section IV of *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, regarding tolerance, integrity, social responsibility and the solicitation of funds.

#### **Commission's decision**

25. In light of the fact that Sur Sagar has filed the required self-monitoring plan and reports and appears to be operating in accordance with both the technical and programming criteria set out in the House of Worship Exemption Order, the Commission is satisfied that

Sur Sagar is in compliance with the regulatory obligation of which it wishes to be relieved. Furthermore, the Commission notes the role of the Department of Industry (the Department) in ensuring that stations are operating in accordance with their approved technical parameters, and that any technical issues encountered through the operation of VF2689 would therefore be addressed by the Department. Accordingly, the Commission finds that it would be appropriate to approve Sur Sagar's request for relief from the requirement for Ravinder Singh Pannu and Sur Sagar to file quarterly self-monitoring reports for VF2689, as set out in paragraph 50 of Broadcasting Decision 2016-414.

### **Rescission of Broadcasting Mandatory Order 2016-417**

26. While there is no specific test to determine whether a mandatory order should be rescinded, certain factors including compliance by the operator of a radio station, the seriousness of the offence that led to the imposition of the mandatory order, and the length of time the order has been in place should be taken into consideration.
27. In the Commission's view, Broadcasting Mandatory Order 2016-417 should not be rescinded at this time. The Commission acknowledges Sur Sagar's compliance with the mandatory order and the relevant exemption order over the past five years, as discussed above. However, as noted by Akash Broadcasting, this mandatory order was imposed in light of the station's operator having committed one of the most serious offences under the Act, specifically, operating a radio station without a licence.
28. The reporting requirements set out in paragraph 50 of Broadcasting Decision 2016-414 were supported by the issuance of Broadcasting Mandatory Order 2016-417. As discussed above, the Commission has relieved Ravinder Singh Pannu and Sur Sagar of the requirement to submit quarterly reports as set out in that decision, which will provide the operator of VF2689 with immediate relief from the administrative burden of producing these reports.
29. Given that the reporting requirements set out in paragraph 50 of Broadcasting Decision 2016-414 were incorporated by reference into the mandatory order, this aspect of the mandatory order will no longer apply. However, Broadcasting Mandatory Order 2016-417 also requires the submission of reports relating to the programming and operations of the station "as may be requested by the Commission from time to time." Retaining the mandatory order will therefore enable the Commission to review the programming and operation of the station should the need to do so arise in the future.
30. Further, the other mandatory orders appended to Broadcasting Decision 2016-414 remain in place to ensure that the operator is compelled to continue to comply with the Act and meet the criteria set out in the exemption order pursuant to which it is operating. In this regard, Broadcasting Mandatory Order 2016-418, which relates to the retention and submission of audio recordings, remains in place should there be a need to monitor the station again in the future.

## Conclusion

31. In light of all of the above, the Commission **approves in part** the application by Sur Sagar Radio Inc. for relief from the reporting requirements for VF2689 Surrey. Specifically, the Commission **approves** the applicant's request to be relieved from the reporting requirements set out in paragraph 50 of Broadcasting Decision 2016-414, but **denies** its request for the rescission of Broadcasting Mandatory Order 2016-417.

Secretary General

## Related documents

- *Amendments to exemption orders for various types of radio programming undertakings, Broadcasting Regulatory Policy CRTC 2018-137, 27 April 2018*
- *Licensing of new radio stations to serve Surrey and Vancouver, and addition of a transmitter in Surrey, Broadcasting Decision CRTC 2016-464, 28 November 2016*
- *Sur Sagar Radio Inc. and Ravinder Singh Pannu – Issuance of mandatory orders, Broadcasting Decision CRTC 2016-421 and Broadcasting Orders CRTC 2016-422, 2016-423 and 2016-424, 20 October 2016*
- *Surrey Myfm inc. and Ravinder Singh Pannu – Issuance of mandatory orders, Broadcasting Decision CRTC 2016-414 and Broadcasting Orders CRTC 2016-415, 2016-416, 2016-417 and 2016-418, 20 October 2016*
- *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*
- *Exemption order for low-power radio stations that provide programming from houses of worship, Broadcasting Order CRTC 2013-621, 21 November 2013*