



Broadcasting Decision CRTC 2007-101

Ottawa, 28 March 2007

TFG Communications Ltd.
Saint John, New Brunswick

Application 2006-1044-5
Broadcasting Public Notice CRTC 2006-131
13 October 2006

CJEF-FM Saint John – Licence amendment

*The Commission **denies** an application by TFG Communications Ltd. to delete certain conditions of the licence that relate to programming for CJEF-FM Saint John.*

Introduction

1. The Commission received an application by TFG Communications Ltd. (TFG) to amend the broadcasting licence for the low-power radio programming undertaking CJEF-FM Saint John, New Brunswick. TFG requested that the Commission delete conditions of licence requiring that CJEF-FM operate in the specialty format,¹ devote more than 50% of the broadcast week to spoken word programming, and broadcast no more than 40% hit material in any broadcast week.² The applicant indicated that approval of the application would permit CJEF-FM to adopt a musical format offering a blend of urban, dance, contemporary hits, rock and alternative musical selections targeting listeners between 12 and 24 years of age. TFG indicated that it would offer a maximum level of 49% hit material.
2. CJEF-FM was first licensed in *Low-power FM radio station in Saint John*, Broadcasting Decision CRTC 2003-50, 14 February 2003 (Decision 2003-50), as an English-language specialty FM service in which more than 50% of the broadcast week would be devoted to spoken word comedy programming. Later, in *CJEF-FM Saint John – New transmitter at Rothesay*, Broadcasting Decision CRTC 2006-573, 5 October 2006, the Commission approved an application for a new low-power transmitter for CJEF-FM to serve Rothesay and the neighbouring area.
3. The Commission received an intervention in support of this application from Kennebecasis Valley High School, as well as opposing interventions from Maritime Broadcasting Systems Limited (MBS), Rogers Broadcasting Limited (RBL), the Canadian Association of Broadcasters (CAB) and Acadia Broadcasting Limited (Acadia).

¹ The specialty format is 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*, Public Notice CRTC 2000-14, 28 January 2000.

² “Hit material” is defined in Public Notice CRTC 1997-42, 23 April 1997.

Commission's analysis and determinations

4. After considering the positions of the parties to this proceeding, the Commission finds that the issue arising from this application is whether it should approve amendments to the conditions of licence for CJEF-FM, which is a low-power station in its first term of licence, that would permit the station move out of a format focussed on spoken word programming and adopt a more mainstream format based on popular music.
5. The CAB, MBS and Acadia opposed the application on the grounds that TFG would use its two low-power transmitters to create what would, in effect, be a full commercial radio station that would compete with existing Saint John radio stations that provide mainstream musical formats. The CAB submitted that the combined signals of CJEF-FM's low-power transmitters serving Saint John and Rothesay cover approximately 69% of the Saint John central market area, based on 2001 Statistics Canada data. It was therefore concerned that a move by CJEF-FM to a mainstream musical format could have a significant negative impact on existing Saint John radio stations.
6. For its part, TFG argued that, in accordance with the policy for low-power radio set out in *Policy framework for community-based media*, Broadcasting Public Notice CRTC 2002-61, 10 October 2002, it would provide a diverse programming voice for Saint John. TFG further submitted that CJEF-FM's playlist would not overlap that of any commercial radio station in the market by more than 20%. TFG stated that it had no intention of becoming a full-power commercial radio station that would compete with other such stations in Saint John.
7. The Commission is of the view that approval of the application would decrease the diversity that CJEF-FM provides to the Saint John market. Upon approval of the proposed amendments, CJEF-FM would have the same flexibility as other mainstream stations to freely adjust the types of popular music that it broadcasts. Although CJEF-FM indicated that its playlist would not overlap that of any commercial station by more than 20%, the Commission considers that this commitment, which would require constant monitoring of other radio stations in the market by the applicant, would be very difficult to implement. It would also be very difficult for the Commission and other broadcasters to assess TFG's compliance with this commitment.
8. The Commission is further of the view that approval of the application would serve to undermine the integrity of its licensing process. In Decision 2003-50 the Commission stated that, in approving the original licensing application for CJEF-FM, it had taken into account the fact that the applicant's proposed spoken word comedy format was not offered by an existing Saint John station. As indicated by RBL and the CAB, CJEF-FM is still in its first term of licence, and the Commission is not convinced that it has given the format on which it based its original application a fair try.

9. The Commission further notes that CJEF-FM is a low-power station. As such, the Commission considered the original application for CJEF-FM without issuing a call for competing applications. The Commission notes that in 2004, it licensed a new regular power commercial station as well as a community radio station to serve Saint John following a competitive process. At the same time, it denied applications for two mainstream music stations to serve the market.³ The Commission is concerned that approval of the current application would permit the licensee to enter the mainstream commercial Saint John radio market by the “back-door” in that it would be allowed to adopt a mainstream format while bypassing a competitive process.
10. Accordingly, the Commission **denies** the application by TFG Communications Ltd. to delete conditions of licence requiring that CJEF-FM operate in the specialty format, devote more than 50% of the broadcast week to spoken word programming, and broadcast no more than 40% hit material in any broadcast week.

Secretary General

This decision is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

³ See *Introduction to Broadcasting Decisions CRTC 2004-513 to 2004-525 – Licensing of new FM radio stations in Halifax, Moncton, Saint John and Fredericton*, Broadcasting Public Notice CRTC 2004-91, 26 November 2004.