



## Broadcasting Decision CRTC 2008-60

Ottawa, 12 March 2008

**TFG Communications Inc.**  
Saint John, New Brunswick

*Application 2007-1589-9, received 8 November 2007  
Broadcasting Public Notice CRTC 2007-143  
24 December 2007*

### **CJEF-FM Saint John – Licence amendment**

*The Commission **denies** the application by TFG Communications Inc. to amend the broadcasting licence for CJEF-FM Saint John by deleting the conditions of licence related to its operation within the Specialty format.*

#### **Introduction**

1. The Commission received an application by TFG Communications Inc. (TFG) to amend the broadcasting licence for the low-power radio programming undertaking CJEF-FM Saint John by deleting the conditions of licence requiring that CJEF-FM operate in the Specialty format as defined in Public Notices 1995-60 and 2000-14, devote more than 50% of the broadcast week to spoken word programming, and broadcast, in any broadcast week, no more than 40% hit material as defined in Public Notice 1997-42. The applicant indicated that approval of the application would permit CJEF-FM to adopt a musical format offering a blend of alternative rock, hip hop and rhythm & blues targeting listeners between 18 and 34 years of age. At least 50% of all musical selections from content category 2 (Popular Music) played both during the broadcast week and between 6 a.m. and 6 p.m. Monday through Friday would be devoted to Canadian selections played in their entirety. TFG also indicated that it would accept a condition of licence requiring it to devote 15% of its musical selections to local (Maritime) music.
2. CJEF-FM was first licensed in Broadcasting Decision 2003-50 as an English-language Specialty FM service that would devote more than 50% of the broadcast week to spoken word comedy programming. In Broadcasting Public Notice 2006-71 and Broadcasting Decision 2006-573, the Commission approved applications to transfer the ownership and control of TFG and for a new low-power transmitter for CJEF-FM to serve Rothesay and the neighbouring area.
3. In Broadcasting Decision 2007-101, the Commission denied an application by TFG to delete the conditions of licence related to its operation within the Specialty FM format. The Commission determined that approval of the application would, among other things, decrease the diversity in the market and allow the licensee to enter the mainstream commercial Saint John radio market by the “back door.”

4. Seven months after the issuance of Broadcasting Decision 2007-101, TFG filed the present application to amend the broadcasting licence for CJEF-FM Saint John.
5. The Commission received interventions in opposition to the application from Maritime Broadcasting Systems Limited (MBS), the Canadian Association of Broadcasters (CAB) and Acadia Broadcasting Limited (Acadia), all of whom also opposed the above-noted application resulting in Broadcasting Decision 2007-101.

### **Commission's analysis and determinations**

6. After considering the positions of the parties, the Commission finds that the issue to be determined remains exactly the same as that addressed in Broadcasting Decision 2007-101, namely whether there are sufficient grounds to justify approving amendments to CJEF-FM's conditions of licence in its first licence term that would permit the station to move out of a Specialty format focussed on spoken word programming and adopt a more mainstream format based on popular music.
7. The CAB, MBS and Acadia opposed the application on the same grounds as they opposed TFG's previous application. Specifically, they alleged 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. The CAB noted that this was the second time that the applicant was attempting to delete the conditions relating to CJEF-FM's Specialty FM format within the station's first licence term. The CAB further noted that in the context of the transfer of ownership announced in Broadcasting Public Notice 2006-71, the new owner had made assurances to the Commission that it would adhere to the station's existing conditions of licence. In the CAB's view, the proposed change to the station's format clearly suggested that TFG's new owner intended to compete with other commercial music stations in the Saint John radio market rather than to maintain a complementary service in that market. Finally, the CAB submitted that all of the reasons for denying CJEF-FM's previous amendment request remained relevant to the current application.
8. In reply, TFG submitted that CJEF-FM was no threat to any other radio station in the market since the latest BBM Canada diary survey showed that CJEF-FM has less than 1% audience share in the Saint John radio market.
9. The Commission remains of the view expressed in Broadcasting Decision 2007-101 that approval of the applicant's request to delete the conditions related to CJEF-FM's Specialty format would decrease the diversity that the station 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. Even though TFG has indicated that CJEF-FM would monitor other stations' playlists in order not to overlap their programming by more than 20% because it is in its own interest to do so, the Commission reiterates its view that this commitment would be very difficult to implement, as it would require constant monitoring of other radio stations in the market by the applicant. As noted in Broadcasting Decision 2007-101, it would also be very difficult for the Commission and other broadcasters to assess TFG's compliance with this commitment.

10. The Commission also remains of the view that approval of the application would serve to undermine the integrity of its licensing process. In Broadcasting Decision 2003-50, the Commission stated that in approving the 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 any existing Saint John station. As indicated by the CAB, CJEF-FM is still in its first licence term, and the Commission is not convinced that it has given the format on which it based its original application a fair try. The Commission considers that new radio stations do not generally reach maturity until the third or fourth year of operation and therefore expects TFG to make every effort to implement its original business plan to serve the community of Saint John. Moreover, as noted by Acadia, CJEF-FM is not bound to maintaining the comedy format but rather to devoting more than 50% of its weekly programming to spoken word content. As indicated by Acadia, the broadcast of news, sports, talk, or community or religious spoken word programming would allow the station to develop an audience while remaining in compliance with its conditions of licence.
11. Further, as indicated in Broadcasting Decision 2007-101, CJEF-FM is a low-power station. As such, the Commission considered the licensing 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.<sup>1</sup> The Commission remains 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.
12. Finally, the Commission notes that TFG did not submit compelling evidence that would warrant approval of this application.
13. Accordingly, the Commission **denies** the application by TFG Communications Inc. to delete the 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

#### Related documents

- *CJEF-FM Saint John – Licence amendment*, Broadcasting Decision CRTC 2007-101, 28 March 2007

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<sup>1</sup> 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.

- *CJEF-FM Saint John – New transmitter at Rothesay*, Broadcasting Decision CRTC 2006-573, 5 October 2006
- *Ownership applications granted approval*, Broadcasting Public Notice CRTC 2006-71, 9 June 2006
- *Low-power FM radio station in Saint John*, Broadcasting Decision CRTC 2003-50, 14 February 2003
- *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000
- *Revised Policy on the Use of Hits by English-Language FM Radio Stations*, Public Notice CRTC 1997-42, 23 April 1997
- *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995

*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>.*