



Broadcasting Decision CRTC 2009-357

Route reference: 2009-36

Ottawa, 17 June 2009

Rick Sargent
Caledon, Ontario

Application 2008-1537-6, received 17 November 2008
Public Hearing in the National Capital Region
30 March 2009

English-language FM radio station in Caledon

*The Commission **approves** an application by Rick Sargent for a broadcasting licence to operate an English-language low-power commercial FM radio station in Caledon, Ontario.*

The application

1. The Commission received an application by Rick Sargent for a broadcasting licence to operate an English-language low-power commercial FM radio programming undertaking in Caledon, Ontario.
2. Rick Sargent is a Canadian within the meaning of the *Direction to the CRTC (Ineligibility of non-Canadians)*, P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998.
3. The station would operate on frequency 102.7 MHz (channel 274LP) with an average effective radiated power of 50 watts. The proposed station's technical parameters are identical to those of CFGM-FM Caledon, an English-language low-power tourist information station owned and operated by Rick Sargent. This tourist information service was approved in Broadcasting Decision [2007-371](#). Rick Sargent requested that, subject to approval of the present application, the Commission revoke its licence for CFGM-FM Caledon.
4. The proposed station would offer a broad music format that would include the following genres: pop, rock, jazz, easy listening and country. The applicant committed, by condition of licence, to devote 75% of its musical selections from category 2 (Popular music) over the broadcast week and between 6 a.m. and 6 p.m. Monday to Friday to Canadian selections. In addition, Rick Sargent also committed to broadcast 21 hours of spoken word programming per broadcast week, including 4 hours of news, of which 2 hours and 45 minutes would be devoted to pure news. The station would devote 33% of its newscasts to local news stories. The station would also devote 100 hours per broadcast week to local programming.

Interventions and reply

5. The Commission received several interventions in support of this application, as well as one intervention in opposition from Astral Media Radio G.P. (Astral). The interventions and the applicant's reply to the intervention in opposition can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
6. In its intervention, Astral argued that approval of the applicant's proposal would undermine the integrity of the Commission's licensing process. According to Astral, approval of the present application would allow the applicant to gain back-door entry into the Caledon market without going through a competitive licensing process. Astral further noted that "it is a well established Commission policy to not be predisposed to considering applications for licence amendment shortly following the launch of a new service or, for specialty formats, during the first term of a new licence."
7. Astral further argued that approval of Rick Sargent's application would be contrary to the policy for low-power radio set out in Broadcasting Public Notice 2002-61. Astral stated that, according to the above policy, low-power radio undertakings should typically provide niche services that increase the overall diversity of voices in the broadcasting system. Astral contended that these niche services should complement the services of existing commercial broadcasters rather than compete with them. Astral argued that the applicant did not adequately address the impact its service would have upon incumbents, the impact of the loss of the market's tourist information service, the needs of the community and whether its proposal is in the public interest.
8. In its reply to Astral's intervention, Rick Sargent argued that it is proposing a unique music format in keeping with the spirit of Broadcasting Public Notice 2002-61 and that it does not intend to compete with other mainstream commercial stations in the market. Rick Sargent stated that it is requesting permission to change from one niche format (tourist information) to another niche format (primarily Canadian music). The applicant further argued that its application for a new commercial licence was based on numerous requests from the Caledon community as well as the challenges of the current economic climate. Furthermore, the applicant stated that the tourist information service would be enhanced through the approval of this application – it would allow the station to conduct live, on-location broadcasts as well as live broadcasts of local concerts and fairs, thus enhancing the local community's ability to attract visitors to local events.

Commission's analysis and determinations

9. After examining the application in light of applicable regulations and policies and taking into account the interventions received and the applicant's reply to the opposing intervention, the Commission considers that the issues to be addressed in its determinations are the following:
 - Would approval of the present application undermine the normal licensing and competitive process?

- Would the proposed service bring value to the Caledon radio market?

Would approval of the present application undermine the normal licensing and competitive process?

10. The Commission notes that the applicant's proposal is for a new low-power service to be operated under the same technical parameters as its tourist information service. Further, the applicant did not request to change its operating class to one that has protected status under the Department of Industry's rules. Given the above, the Commission is of the view that the applicant is not using the present application in order to gain "back-door" entry to the Caledon market.

Would the proposed service bring value to the Caledon radio market?

11. The Commission is of the view that the service proposed by Rick Sargent would add diversity to the market. Specifically, the service would represent the first local radio service for Caledon and would provide significant local reflection through the broadcast of 100 hours of local programming. In addition, the applicant's commitment to broadcast a high level of Canadian category 2 musical selections would provide enhanced exposure for Canadian artists and add to the programming diversity of the market. The Commission considers that approval of this application would fulfill the policy objectives set out in Broadcasting Public Notice 2006-158.

Conclusion

12. In light of the above, the Commission **approves** the application by Rick Sargent for a broadcasting licence to operate an English-language low-power commercial FM radio programming undertaking in Caledon, Ontario. The terms and **conditions of licence** are set out in the appendix to this decision. Pursuant to sections 9(1)(e) and 24(1) of the *Broadcasting Act*, and consistent with the licensee's request, the Commission **revokes** the broadcasting licence for the English-language low-power tourist information radio programming undertaking CFGM-FM Caledon.

Canadian content development

13. The Commission reminds the applicant that it must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time. The Commission notes that the applicant committed, by condition of licence, to exceed the minimum contribution to CCD. Specifically, the applicant committed to devote, over and above the required basic annual contribution to CCD, an annual contribution of \$300 for a total of \$2,100 over seven consecutive broadcast years, upon commencement of operations. Of this amount, 20% will be devoted to FACTOR, with the remainder to be directed to the Mayfield School of the Arts scholarship, an eligible CCD initiative. A **condition of licence** to this effect is set out in the appendix to this decision.
14. The Commission reminds the applicant that any contributions that have not been allocated to specific parties by condition of licence must be allocated to the support, promotion, training and development of Canadian musical and spoken word talent,

including journalists. Parties and initiatives eligible for CCD funding are identified in paragraph 108 of Broadcasting Public Notice 2006-158.

Secretary General

Related documents

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *English-language FM radio station in Caledon*, Broadcasting Decision CRTC 2007-371, 15 October 2007
- *Policy framework for community-based media*, Broadcasting Public Notice CRTC 2002-61, 10 October 2002

This decision is to be appended to the licence. It 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>.

Appendix to Broadcasting Decision CRTC 2009-357

Terms, conditions of licence and encouragement

Terms

Issuance of the broadcasting licence to operate an English-language, low-power commercial FM radio programming undertaking in Caledon, Ontario.

The licence will expire 31 August 2015.

The station will operate at 102.7 MHz (channel 274LP) with an average effective radiated power of 50 watts.

Given that the technical parameters approved in this decision are for a low-power unprotected FM service, the Commission reminds the applicant that it will have to select another frequency if the Department of Industry so requires.

Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 17 June 2011. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Conditions of licence

1. The licence will be subject to the conditions set out in *Conditions of licence for AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. The licensee shall, 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*, in any broadcast week:
 - a) devote, in that broadcast week, a minimum of 75% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety; and
 - b) devote, between 6:00 a.m. and 6:00 p.m., in the period from Monday to Friday of the same broadcast week, a minimum of 75% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

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 *Radio Regulations, 1986*.

3. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall, upon commencement of operations, make an annual contribution of \$300 (\$2,100 over seven consecutive broadcast years) to the promotion and development of Canadian content.

Of this amount, the licensee shall allocate no less than 20% per broadcast year to FACTOR. The remaining amounts of this additional CCD contribution 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.

Encouragement

Employment equity

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.