



## Broadcasting Decision CRTC 2012-110

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Route reference: 2011-595

Ottawa, 22 February 2012

### **Mark Tamagi, on behalf of a corporation to be incorporated**

Leduc, Alberta

*Application 2011-0766-5, received 29 April 2011*

*Public hearing in the National Capital Region*

*21 November 2011*

### **English-language FM radio station in Leduc**

*The Commission **approves** the application by Mark Tamagi, on behalf of a corporation to be incorporated, for a broadcasting licence to operate an English-language commercial FM radio station in Leduc.*

#### **Introduction**

1. The Commission received an application by Mark Tamagi, on behalf of a corporation to be incorporated (Tamagi), for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Leduc, Alberta. The new station would operate at 93.1 MHz (channel 226A) with an average effective radiated power (ERP) of 1,100 watts (maximum ERP of 2,000 watts with an effective height of antenna above average terrain of 72.5 metres).
2. Tamagi will be controlled by its majority shareholder and President and Chief Executive Officer, Mark Tamagi.
3. The applicant indicated that the station would provide a first radio service to Leduc. Tamagi further stated that it did not intend to direct advertising to Edmonton.
4. The new station would offer a country music format with 126 hours of local programming per broadcast week, including 6 hours and 31 minutes of news. Local programming would include local newscasts, weather, local sports, an arts and cultural show, as well as a swap and shop feature that would provide listeners with an opportunity to buy, sell or trade items on the air. The station would target adults between the ages of 25 and 54.
5. The applicant committed to devote, by condition of licence, at least 40% of its category 2 (Popular Music) musical selections broadcast each broadcast week and from 6:00 a.m. to 6:00 p.m., Monday to Friday, to Canadian selections broadcast in

their entirety. This commitment exceeds the minimum requirements set out in the *Radio Regulations, 1986* (the Regulations).

6. The applicant further proposed to exceed the basic annual contribution to Canadian content development (CCD) required by section 15 of the Regulations. Specifically, Tamagi would contribute, by condition of licence, an additional \$5,000 per broadcast year to CCD, for a total of \$35,000 over seven consecutive broadcast years upon commencement of operations.

### **Interventions**

7. The Commission received interventions in support of this application as well as one comment. The complete record of this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
8. In his comment, Mr. Kirk Cayer (Cayer) submitted that CIHS-FM Wetaskiwin already provides local coverage within the region. While not necessarily opposing the Tamagi application, Cayer submitted that he would have preferred the Commission to issue a call for applications to serve this market.

### **Applicant's reply**

9. In reply, Tamagi stated that CIHS-FM is licensed to serve the city of Wetaskiwin, not the city of Leduc. With respect to Cayer's request for a call for applications, Tamagi submitted that its application is for the first and only FM station to serve the city and county of Leduc, and that the Commission does not issue a call for competing applications for a new service in a community that does not have an existing radio service.

### **Commission's analysis and decisions**

10. After examining the public record for this application in light of applicable policies and regulations, the Commission considers that the issues it must address are the following:
  - Should the Commission have issued a call for competitive applications before processing the Tamagi application; and
  - Should the Commission impose a condition of licence prohibiting Tamagi from directing marketing activities to Edmonton?

### **Should the Commission have issued a call for competitive applications before processing the Tamagi application?**

11. In Broadcasting Public Notice 2006-159, the Commission stated that proposals to provide the first commercial service in a market will not generally result in a call for applications.

12. The Commission agrees with Tamagi that CIHS-FM is licensed to serve Wetaskiwin. With regard to the Tamagi application, the Commission notes that the community of Leduc is included within the Edmonton Central BBM radio market. However, under the Regulations, the market of an FM station is defined as the station's 3 mV/m contour or the central area as defined by BBM, whichever is smaller. In this case the 3 mV/m contour defines the market of the proposed station, and neither it, nor the proposed 0.5 mV/m contour, encompass the city of Edmonton. Therefore the Commission is of the view that the application by Tamagi (OBCI) represents a first service to Leduc. As such, the Commission finds that it was not necessary to issue a call for competing applications before processing the Tamagi application.

**Should the Commission impose a condition of licence prohibiting Tamagi from directing marketing activities to Edmonton?**

13. The Commission notes that Tamagi does not intend to direct marketing activities to Edmonton and expects the applicant to adhere to its commitment. Given that the proposed 3 mV/m and 0.5 mV/m contours do not reach Edmonton, the Commission does not consider that it is necessary to impose a condition of licence in this regard.

**Other matters**

**Canadian content development**

14. 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 Regulations, as amended from time to time.

15. Tamagi will also contribute, by condition of licence, an additional \$5,000 per broadcast year to CCD, for a total of \$35,000 over seven consecutive broadcast years upon commencement of operations. Of this amount, 20% will be devoted to FACTOR or MUSICACTION. The remainder will be directed to eligible initiatives.

16. The Commission reminds the applicant that any development initiatives 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.

**Conclusion**

17. The Commission considers that the applicant has presented a viable proposal to provide a first radio service to Leduc. Accordingly, the Commission **approves** the application by Mark Tamagi, on behalf of a corporation to be incorporated, for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Leduc. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

## **Related documents**

- *Revised policy concerning the issuance of calls for radio applications and a new process for applications to serve small markets*, Broadcasting Public Notice CRTC 2006-159, 15 December 2006
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

*\*This decision is to be appended to the licence.*

## Appendix to Broadcasting Decision CRTC 2011-110

### Terms, conditions of licence, expectations and encouragement

#### Issuance of the broadcasting licence to operate an English-language commercial FM radio programming undertaking in Leduc, Alberta

##### Terms

The licence will expire 31 August 2018.

The new station will operate at 93.1 MHz (channel 226A) with an average effective radiated power (ERP) of 1,100 watts (maximum ERP of 2,000 watts with an effective height of antenna above average terrain of 72.5 metres).

The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.

The Commission reminds the applicant that, pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Furthermore, the licence for this undertaking will be issued once the applicant:

- has satisfied the Commission, with supporting documentation, that an eligible Canadian corporation has been incorporated in accordance with the application in all material respects; and
- 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 **22 February 2014**. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

##### Conditions of licence

1. The licence shall be subject 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.

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* (the Regulations) in any broadcast week:
  - a) devote, in that broadcast week, a minimum of 40% 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 40% 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 Regulations.

3. In addition to the basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, the licensee shall, upon commencement of operations, make an annual contribution of \$5,000 (\$35,000 over seven broadcast years) to the promotion and development of Canadian content. Of this amount, 20% per broadcast year 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*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

## **Expectations**

### **Cultural diversity**

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

### **Marketing activities**

The Commission expects the licensee to adhere to its commitment to not direct marketing activities to the City of Edmonton.

## **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.