



Broadcasting Decision CRTC 2012-148

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Route reference: 2011-694

Ottawa, 14 March 2012

Haliburton Broadcasting Group Inc.
Bolton and Caledon, Ontario

Application 2011-1205-2, received 19 August 2011
Public hearing in Calgary, Alberta
6 February 2012

CJFB-FM Bolton and CFGM-FM Caledon – Acquisition of assets

*The Commission **approves** the application by Haliburton Broadcasting Group Inc. for authority to acquire from Rick Sargent the assets of the English-language commercial radio stations CJFB-FM Bolton and CFGM-FM Caledon, Ontario, and for broadcasting licences to continue the operation of the stations.*

The application

1. The Commission received an application by Haliburton Broadcasting Group Inc. (Haliburton) for authority to acquire from Rick Sargent the assets of the English-language commercial radio programming undertakings CJFB-FM Bolton and CFGM-FM Caledon, Ontario. The applicant also requested new broadcasting licences to continue the operation of the undertakings under the same terms and conditions as those in effect under the current licences. The Commission did not receive any interventions in connection with this application.
2. Haliburton is controlled by Mr. Christopher Grossman.
3. In Broadcasting Notice of Consultation 2011-694, the Commission stated that the current licensee was in apparent non-compliance with section 9(2) of the *Radio Regulations, 1986* (the Regulations), which pertains to the provision of annual returns, and with section 15 of the Regulations, which pertains to basic annual Canadian content development (CCD) contributions.

Commission's analysis and decisions

4. After examining the application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
 - the assessment of the value of the transaction;
 - the assessment of the proposed tangible benefits package;

- the licensee’s non-compliance with its obligations relating to the provision of annual returns; and
- the licensee’s non-compliance with its obligations relating to CCD contributions.

Assessment of the value of the transaction

5. Because the Commission does not solicit competing applications for authority to transfer the ownership or control of radio, television and other programming undertakings, the onus is on the applicant to demonstrate that the benefits proposed in the application are commensurate with the size and nature of the transaction (see Public Notice 1998-41 and Broadcasting Public Notice 2006-158).
6. In accordance with the Asset Purchase and Sale Agreement dated 2 August 2011, the purchase price is \$200,000.
7. In assessing the value of the transaction, the Commission’s general practice is to include in the value of the transaction consulting fees paid to the vendor and assumed leases. The Commission notes that the consulting fees amount to \$30,000. In addition, it has determined that the value of assumed leases amounts to \$54,855.
8. Consequently, the revised value of the transaction amounts to \$284,855, as shown in the following table.

Purchase price	\$200,000
Additions	
Consulting fees	\$30,000
Assumed leases	\$54,855
Value of the transaction	\$284,855

Assessment of the proposed tangible benefits package

9. Consistent with the Commission’s tangible benefits policy set out in Broadcasting Public Notice 2006-158, Haliburton proposed a tangible benefits package equal to 6% of the proposed value of the transaction (i.e., \$12,000).
10. Consistent with the revised value of the transaction, the required value of the proposed tangible benefits package will increase from the proposed \$12,000 to \$17,091.30.
11. In accordance with Broadcasting Regulatory Policy 2010-499, the Commission therefore **directs** Haliburton to allocate its benefits contributions as follows over seven consecutive broadcast years:

- \$8,545.65 to the Radio Starmaker Fund;
- \$4,272.83 to FACTOR;
- \$2,848.54 to an eligible CCD initiative, at the discretion of the purchaser; and
- \$1,424.28 to the Community Radio Fund of Canada.

Non-compliance with obligations relating to the provision of annual returns

12. As set out in section 9(2) of the Regulations, on or before 30 November of each year, licensees are required to file their annual returns for the broadcast year ending the previous 31 August. The Commission notes that in regard to CJFB-FM, the annual returns for the 2007-2008 to 2010-2011 broadcast years were not submitted, and that for CFGM-FM, which launched in February 2011,¹ the annual return for the 2010-2011 broadcast year was not submitted.
13. Haliburton indicated that the previous licensee did not provide the annual returns due to inadequate funding and to a lack of staff qualified to fulfil this function properly. The applicant added that given its proven track record of filing its stations' annual returns on time, it will ensure that the missing annual returns are filed for both undertakings.
14. In light of the above, the Commission **directs** the licensee to file, by no later than **14 May 2012**, CJFB-FM's annual returns for the 2007-2008 to 2010-2011 broadcast years as well as CFGM-FM's annual return for the 2010-2011 broadcast year. **Conditions of licence** relating to the above are set out in the appropriate appendices to this decision. The Commission intends to review both undertakings' apparent non-compliance with their regulatory obligations at the time of their respective licence renewals.

Non-compliance with obligations relating to Canadian content development contributions

15. Since the current licensee failed to file its annual returns with the appropriate information regarding proof of CCD payments, the Commission is unable to assess whether that licensee was in compliance with section 15 of the Regulations as well as with its condition of licence relating to CCD obligations, for CJFB-FM for the 2008-2009 to 2010-2011 broadcast years, and for CFGM-FM for the 2010-2011 broadcast year. Moreover, the Commission is unable to determine whether CFGM-FM has fulfilled its required over-and-above CCD contributions for the 2010-2011 broadcast year.
16. According to Haliburton, it understood that the payments had not been made due to insufficient funding and to a lack of staff qualified to fulfil this function properly. It indicated that future payments would be made in a proper fashion.

¹ The application to operate this station was approved in Broadcasting Decision 2009-357.

17. In light of the above, the Commission **directs** Haliburton to submit proof of payment of all CCD expenditures relating to CJFB-FM's and CFGM-FM's CCD obligations by no later than **14 May 2012**. In addition, the Commission notes that Haliburton confirmed that it would assume responsibility for all CCD shortfalls incurred by the previous licensee and would pay all outstanding amounts for both undertakings. Accordingly, the Commission **directs** Haliburton to fulfill, by no later than **14 May 2012**, any shortfalls relating to required CCD contributions that were incurred for these stations while they were under previous ownership. **Conditions of licence** relating to the above are set out in the appropriate appendices to this decision. The Commission intends to review both undertakings' compliance with their regulatory obligations and conditions of licence at the time of their respective licence renewals.

Conclusion

18. In light of the above, the Commission **approves** the application by Haliburton Broadcasting Group Inc. for authority to acquire from Rick Sargent the assets of the English-language commercial radio programming undertakings CJFB-FM Bolton and CFGM-FM Caledon, Ontario, and for new broadcasting licences to continue the operation of the undertakings.

19. Upon surrender of the current licences, the Commission will issue new broadcasting licences to Haliburton Broadcasting Group Inc. for CJFB-FM Bolton and CFGM-FM Caledon under the terms and **conditions of licence** set out in Appendices 1 and 2, respectively, to this decision.

Secretary General

Related documents

- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2011-694, 9 November 2011
- *English-language FM radio station in Caledon*, Broadcasting Decision CRTC 2009-357, 17 June 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998

**This decision and the appropriate appendix are to be appended to each licence.*

Appendix 1 to Broadcasting Decision CRTC 2012-148

Term, conditions of licence, expectation and encouragement for CJFB-FM Bolton

Term

The licence will expire 31 August 2014.

Conditions of licence

1. The licence will 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 file, by no later than **14 May 2012**, complete annual returns for the 2007-2008, 2008-2009, 2009-2010 and 2010-2011 broadcast years.
3. The licensee shall, by no later than **14 May 2012**, fulfil any Canadian content development (CCD) shortfall incurred by the previous licensee for the 2008-2009, 2009-2010 and 2010-2011 broadcast years and file the appropriate proof of payment validating that all CCD contributions have been paid in full.

Expectation

Cultural diversity

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

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.

Appendix 2 to Broadcasting Decision CRTC 2012-148

Term, conditions of licence, expectation and encouragement for CFGM-FM Caledon

Term

The licence will expire 31 August 2015.

Conditions of licence

1. The licence will 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*, 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 of licence, 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, until 31 August 2017, make an annual contribution of \$300 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.

4. The licensee shall file, by no later than **14 May 2012**, complete annual returns for the 2010-2011 broadcast year.

5. The licensee shall, by no later than **14 May 2012**, fulfil the Canadian content development (CCD) shortfall incurred by the previous licensee for the 2010-2011 broadcast year by making a contribution to CCD in the amount of \$175,^[1] of which no less than 20% shall be directed to FACTOR or MUSICACTION. Further, the licensee shall file the appropriate proof of payment validating that all CCD contributions have been paid in full.

Expectation

Cultural diversity

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

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.

^[1] As explained in *Clarifications regarding Canadian content development contributions made by commercial radio stations*, Broadcasting Information Bulletin CRTC 2009-251, 5 May 2009, the Commission generally requires that a licensee, in its first year of operation, make a pro-rated payment related to its over and above CCD commitment in an amount representing the number of months the station was in operation during that broadcast year. The licensee will be required to contribute, in its seventh full broadcast year, an amount representing the remaining five months of its first year of operation.