



Broadcasting Decision CRTC 2020-322

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Reference: 2020-54

Ottawa, 2 September 2020

Vernon Community Radio Society
Vernon, British Columbia

Public record for this application: 2018-0946-9
Public hearing in the National Capital Region
8 June 2020

Community radio station in Vernon

*The Commission **approves** an application for a broadcasting licence to operate an English-language community FM radio station in Vernon, British Columbia.*

Background

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue broadcasting licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
2. In Broadcasting Notice of Consultation 2019-25, the Commission announced that the Vernon Community Radio Society (VCRS) had applied for a broadcasting licence to operate an English-language community FM radio station in Vernon, British Columbia. In accordance with Broadcasting Regulatory Policy 2014-554, the Commission called for comments on the capacity of the Vernon market to support a new station and the appropriateness of issuing a call for applications for new stations in that market.
3. In Broadcasting Decision 2019-418, the Commission found that the Vernon radio market cannot support an additional commercial radio station. However, given that community stations generally do not raise concerns pertaining to commercial impact and that no other party besides the VCRS expressed an interest in serving that market, the Commission indicated that it would consider the VCRS application as part of the non-appearing phase of an upcoming public hearing.

Application

4. The VCRS is a not-for-profit corporation controlled by its board of directors.

5. The station would operate on frequency 97.9 MHz (channel 250A) with an average effective radiated power (ERP) of 602 watts (maximum ERP of 1,000 watts with an effective height of the antenna above average terrain of -148 metres).
6. The applicant indicated that, during each broadcast week, the station would broadcast 121 hours of local programming. 20% of programming during each broadcast week would be devoted to spoken word. 15% would be locally produced, with the remainder drawn from podcasts and spoken word programming originating from other campus and community stations.
7. The VCRS further stated that it would broadcast 2 hours and 6 minutes of news per broadcast week, of which 1 hour and 45 minutes would be pure news.¹ 75% of the news would be local and 25% regional. The news would be provided in 42 weekly newscasts.
8. The station's music would consist of a mix of 55% of musical selections from content subcategory 21 (Pop, Rock and Dance) and 20% from content subcategory 22 (Country and Country-Oriented). The remainder of the music would come from other subcategories of Category 3 (Special Interest Music). The VCRS stated that it would accept a condition of licence requiring it to devote a minimum of 40% of musical selections drawn from content Category 2 to Canadian selections, which exceeds the minimum level of 35% set out in the *Radio Regulations, 1986* (the Regulations).
9. The Commission notes that the mix of music categories set out above was filed by the VCRS on 27 March 2019. Earlier, on 2 November 2018, the applicant had filed a proposed music breakdown that indicated 60% of music would be from content subcategory 22 (Country and Country-Oriented) and 12% would be from content subcategory 21 (Pop, Rock and Dance). The VCRS indicated that it had adjusted its music breakdown due recent changes to the programming of CJIB-FM, a Vernon commercial radio station, so that the programming of its station would be materially different from the commercial radio stations in Vernon. Since the applicant submitted the revision before the application was published, the public had an opportunity to comment on it during the intervention period.
10. In regard to local talent, the VCRS stated that it would provide six hours per week for the exclusive purpose of featuring new and emerging Canadian artists. It would also establish a modest but functional studio facility to record local talent. The applicant stated that the North Okanagan area is blessed with a robust arts and culture community. As a result, there are writers, poets, rappers and film-makers who would enjoy the opportunity to write and produce audio documentaries.

¹ The definitions for the radio content categories and subcategories are set out in Broadcasting Regulatory Policy 2010-819. The definition of "news" excludes related surveillance material such as weather, traffic, sports and entertainment reports.

11. In regard to volunteer participation, the VCRS would recruit volunteers through a variety of means, including social media, news releases, and its own database of persons who provided contact information through its community survey. The applicant stated that there are a number of retired or semi-retired persons with media experience living in the Vernon area who would enjoy returning to a medium they love as volunteers and part-time paid employees. The VCRS stated that each of its paid staff would participate in training volunteers. As well, volunteers who already have radio experience would be able to act as trainers.

Interventions

12. The Commission received interventions in support of this application, including a joint intervention from 40 individuals.

13. The Commission also received an intervention in opposition from Jim Pattison Broadcast Group Limited Partnership (Pattison), licensee of CJIB-FM Vernon. The VCRS submitted a reply to the Pattison intervention that included revised financial projections. Issues arising from the intervention and the applicant's reply are considered in the following sections of this decision.

Regulatory framework

14. Section 3(1)(b) of the Act states, in part, that the Canadian broadcasting system operates primarily in the English and French languages and includes public, private and community elements.

15. The Commission's policy for community radio is set out in Broadcasting Regulatory Policy 2010-499 (the Policy).

16. The Policy states community radio stations shall be operated by a not-for-profit corporation. Further, a community radio station must:

- permit and facilitate communication among members of the community by fostering diversity in the broadcasting of opinions, spoken word content and musical programming;
- participate in the stimulation of socio-economic endeavours and in the cultural enrichment of communities; and
- reflect the diversity of the communities served. Local programming is produced, in part, by volunteers.

17. The standard conditions of licence for community radio stations set out in Broadcasting Regulatory Policy 2012-304 provide that a licensee shall devote a minimum of 15% of the broadcast week to spoken word programming. For the purpose of this requirement, all spoken word programming must be locally produced.

18. With respect to music, the standard conditions of licence for community radio stations state that, in each broadcast week, a licensee shall devote no less than 20% of its musical selections to musical selections from content subcategories other than content subcategory 21 (Pop, rock and dance). In addition, in each broadcast week, a licensee shall devote no less than 5% of its musical selections to selections from content category 3 (Special Interest Music).

Commission's analysis and decisions

19. After examining the record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address relate to the following:

- acceptance of the applicant's revised financial projections;
- financial impact on existing radio stations in the Vernon radio market; and
- diversity of programming.

Acceptance of the applicant's revised financial projections

20. The VCRS submitted revised financial projections in reply to the Pattison intervention. The VCRS stated that the revenue projections it had submitted when it filed the application in 2018 required amendments to reflect the impact of the COVID-19 pandemic and the systemic challenges facing broadcasters. In the revised projections, advertising revenues are 56% lower, alternate revenues are 46% higher, and overall revenues are 35% lower than in the original projections.

21. Pursuant to section 27(2)(a) of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules), a reply must be restricted to the points raised in an intervention. In reply, the applicant is given an opportunity to disagree with a fact alleged by an intervener and provide evidence that supports its claim. If an applicant does not deny an alleged fact, the Commission will generally assume that it agrees with it and make its determination on this basis.²

22. As a general practice, the Commission does not permit an applicant to file revised financial projections in a reply given that interested parties do not have an opportunity to respond to this new information. Moreover, the revised financial projections arguably supplement or modify the application, contrary to section 24 of the Rules. However, in this case, the Commission notes that:

² Broadcasting and Telecom Information Bulletin 2010-959, para.76.

- consideration of the VCRS's application could only take place after the Commission undertook a radio market assessment, which rendered the financial projections filed almost 15 months prior to the hearing somewhat out of date;
- because of the COVID-19 crisis, the market is experiencing rapid and unanticipated change and the revised projections take these factors into account; and
- the updated revenue projections were provided in response to an opposing intervention expressing concerns about the applicant's reliance on advertising revenues and the economic impact on incumbent stations.

23. The Commission therefore finds that it is in the public interest to accept the VCRS's revised projections and exercises its discretion in accordance with section 7 of the Rules to consider them as part of its evaluation of the application.

Financial impact on existing radio stations in the market

24. Pattison's CJIB-FM is one of two incumbent commercial radio stations in Vernon; the other is CICF-FM, which is owned by Bell Media Inc. (Bell Media). Pattison submitted that the economic conditions of the Vernon radio market are such that the addition of the proposed radio station would do significantly more harm to the incumbent stations than projected. Pattison argued that economic conditions are trending downwards (globally, nationally, provincially, locally) and submitted that the Vernon market performs below the national and provincial radio averages. Pattison expressed skepticism at the applicant's ability to cultivate 50% of its revenue from new advertisers given that Pattison and Bell Media are sophisticated and experienced broadcast companies that employ experienced sales managers and make every effort to ensure viability in this small market.

25. In reply, the VCRS provided a list of Vernon's economic indicators that are positive, including some that have improved since the Commission's market assessment was published. In response to Pattison's intervention and the impact of COVID-19, the applicant revised its business plan by reducing the number of personnel, projected wage rates, anticipated paid part-time hours and eliminating discretionary budget items. This revision included updated five-year revenue projections reducing estimates for advertising sales and increasing the emphasis on community-sourced fundraising. Finally, the applicant laid out how the proposed service elements would differentiate it from existing commercial services, and explained how its sales strategy would grow the radio market by targeting small businesses who cannot afford the regular commercial station rate and targeting professional associations that would be better suited to program sponsorship as opposed to regular commercials.

26. The Commission notes that the applicant is proposing a community radio service with projected average yearly advertising revenues of \$144,000 over 5 years. This

represents a modest share of Vernon's 2019 commercial radio ad revenues (i.e, below 5%). Further, both Vernon commercial stations are well established and owned by large experienced ownership groups. The incumbent commercial stations also have superior technical coverage to that of the applicant's proposed station.

27. While the record of this proceeding closed prior to the COVID-19 pandemic, the Commission recognizes that the pandemic has had significant negative impacts on the Canadian economy. While the full effect of the pandemic on the Vernon radio market is unknown at this time, the province had already reopened many facets of the economy at the time of this decision. The Commission also notes that a newly licensed service is given at least two years to commence operations. Finally, the applicant is proposing a community service that, regardless of the state of the economy, should have limited impact on incumbent commercial services.
28. In light of the above, and given the nature of the proposed service, the Commission finds that the proposed community station would not have an undue negative financial impact on existing stations in the market.

Diversity of programming

29. Pattison argued that the VCRS is proposing programming that is very similar to the existing music formats provided by the two incumbent commercial stations in Vernon. Pattison stated that, contrary to the VCRS's contention, nothing in the revised music breakdown responded to CJIB-FM's changed format, since CJIB-FM did not reformat to country music.
30. In reply, the VCRS highlighted the following elements that it considered would make its programming different from that of the Vernon commercial stations:
- it would broadcast 20% spoken word content each broadcast week;
 - it would offer a playlist of more than 2,000 selections;
 - it would provide block programming rather than an homogenous format;
 - it would offer in-depth local public affairs and long-form interviews;
 - there would be a strong focus on new and emerging local talent;
 - it would not rely on hit music;
 - programming would be driven by community interest and need, not commercial concerns; and
 - it would rely heavily on volunteers from a wide variety of backgrounds to produce programming.
31. Finally, the applicant indicated that it would be willing to accept a condition of licence reducing the maximum percent of music drawn from content subcategory 21 (Pop, Rock and Dance) to 40% and increasing the percentage of music drawn from content subcategory 22 (Country and Country-oriented) to 40%.

32. The Commission considers that the VCRS has made a number of commitments that will serve to ensure that the proposed community station will provide programming that is complementary to rather than imitative of the programming provided by commercial radio stations in Vernon.
33. In particular, the Commission notes the VCRS's commitment to provide 126 hours of programming each broadcast week of which 121 hours would be local programming. A total of 20% of programming would be spoken word, including two hours and six minutes of news in 42 weekly newscasts.
34. The applicant also indicated that it would accept a condition of licence requiring it to devote a minimum of 40% of musical selections from content category 2 aired during each broadcast week to Canadian selections, and that it would devote 6 hours per broadcast week to local talent.
35. Given that community stations are allowed to devote up to 80% of their musical selections to selections drawn from content subcategory 21 (Pop, Rock and Dance), the Commission finds the applicant's proposal to devote a maximum of 55% of musical selection to selections drawn from subcategory 21 meets the requirements for a community radio station as set out in Broadcasting Public Notice 2010-499. It is therefore not necessary to impose a condition of licence reducing the level of selections from content subcategory 21.
36. The Commission also considers that the VCRS has provided a detailed and viable recruitment program for volunteers. The plan makes reference to those with broadcasting experience. The Commission reminds the applicant that, since this will be a community radio station, opportunity should be provided for volunteers without previous broadcasting experience to participate in the station. At the time of licence renewal, the Commission will review the programming to ensure that the station provides a community service.
37. The Commission is therefore of the view that the VCRS has presented a high quality programming proposal that is consistent with the policy for community radio set out in Broadcasting Regulatory Policy 2010-499.

Conclusion

38. In light of all of the above, the Commission **approves** the application by the Vernon Community Radio Society for a broadcasting licence to operate an English-language community FM radio programming undertaking in Vernon, British Columbia. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminder

39. Pursuant to section 16 of the Regulations, all licensees of campus, community and Indigenous radio stations must participate in the National Public Alerting System.

Secretary General

Related documents

- *Findings regarding market capacity and the appropriateness of issuing a call for radio applications to serve the Vernon radio market*, Broadcasting Decision CRTC 2019-418, 13 December 2019
- *Call for comments on market capacity and the appropriateness of issuing a call for radio applications to serve Vernon, British Columbia*, Broadcasting Notice of Consultation CRTC 2019-25, 30 January 2019
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014
- *Standard conditions of licence for campus and community radio stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010
- *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010
- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2020-322

Terms, conditions of licence, expectation and encouragement for the English-language community FM radio programming undertaking in Vernon, British Columbia

Terms

The licence will expire 31 August 2027.

The station will operate at 97.9 MHz (channel 250A) with an average effective radiated power (ERP) of 602 watts (maximum ERP of 1,000 watts with an effective height of the antenna above average terrain of -148 metres).

Pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry 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 only 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 **2 September 2022**. 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 licensee shall adhere to the conditions of licence set out in *Standard conditions of licence for campus and community stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. As an exception to section 2.2(8) of the *Radio Regulations, 1986* (the Regulations), the licensee shall devote at least 40% of its musical selections from content category 2 (Popular Music) in any broadcast week 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.

Expectation

As set out in *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010, the Commission expects all community and campus licensees to file yearly updates on the composition of their boards of directors. These annual updates can be submitted at the time of submission of annual returns, following

annual board of directors' elections, or at any other time. As noted in Appendix 3 to that regulatory policy, licensees may submit such documentation via the Commission's website.

Encouragement

The Commission considers that community radio stations should be particularly sensitive to employment equity issues in order to reflect fully the communities they serve. It encourages the licensee to consider these issues in its hiring practices and in all other aspects of its management of human resources.