



**Canadian
Association of
Broadcasters**

**L'Association
canadienne des
radiodiffuseurs**

November 17, 2006

Ms. Diane Rhéaume
Secretary General
Canadian Radio-television and
Telecommunications Commissions
Ottawa, Ontario
K1A 0N2

Dear Ms. Rhéaume:

Re: Broadcasting Public Notice CRTC 2006-131, Item 1 – Application No. 2006-1044-5 by TFG Communications Inc. (TFG) to amend the licence of CJEF-FM Saint John, New Brunswick

1. The Canadian Association of Broadcasters (CAB) – the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private radio and television stations, networks and specialty, pay and pay-per-view televisions services – is pleased to submit this intervention respecting the above-noted application.
2. TFG has applied to delete the following conditions of licence for CJEF-FM:

The station shall be operated within the Specialty format as defined in A review of certain matters concerning radio, Public Notice CRTC 1995-60, 21 April 1995, and Revised content categories and subcategories for radio, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.

The licensee shall devote more than 50 % of each broadcast week to the broadcast of spoken word programming.

The licensee shall broadcast, in any broadcast week, no more than 40% hit material as defined in Revised policy on the use of hits by English-language FM radio stations, Public Notice 1997-42, 23 April 1997.

3. As noted in Broadcasting Public Notice CRTC 2006-131, the licensee is now proposing to offer a blend of Urban, Dance, Contemporary Hits Rock, Rock and Alternative musical selections, targeting the 12-24 year old demographic.
4. The CAB submits that this application raises a number of concerns regarding the Commission's licensing approach for specialty radio stations, and should therefore be denied.
5. CJEF-FM was first authorized to serve the Saint John market in February 2003 as a specialty LPFM radio station to be devoted to spoken word comedy programming. Decision CRTC 2003-50 approving the new service stated that:

The Commission took into consideration that the applicant proposes to operate in a spoken word comedy format that is currently not offered by any existing Saint John radio stations, and that the applicant's revenue projections are modest. Furthermore, the low-power signal of the proposed station would cover only the downtown core of Saint John, and will therefore not have a significant impact on the existing stations in the market.

6. The CAB notes that the licensee was subsequently granted three technical licence amendments, in Broadcasting Decisions CRTC 2003-437, CRTC 2005-593 and CRTC 2006-573. The most recent technical change of CJEF-FM, approved by the Commission just over a month ago, was to add a low-power transmitter at Rothesay to serve the population of Rothesay and its surrounding area.
7. The CAB understands that the combined signals of the Saint John and Rothesay transmitters cover 69% of the Saint John CMA, based on Statistics Canada 2001 census information. This means that even if CJEF-FM is technically considered an LPFM station, it could have a significant impact on the existing stations in the Saint John market if the Commission approves the current application to change the format of the station from predominantly spoken-word comedy programming to mainstream music.
8. The CAB is of the view that this application represents the final step of a "back door" approach using multiple low-power transmitters to create what would be in effect a full commercial radio station entering the mainstream Saint John radio market. Approval of TFG's application would allow CJEF-FM to compete head-on with other music format radio stations that were licensed to serve the Saint John radio market in the context of competitive licensing processes, a process which did not apply to CJEF-FM given its LPFM status.

9. Furthermore, the CAB points out that the current application contradicts the commitment made less than a year ago by the new owner of the station. In a letter dated January 27th, 2006 in response to a deficiency question with respect to the transfer of ownership of TFG, the current licensee indicated that::

If the change in ownership is approved, I intend to adhere to the existing conditions of licence as per decision CRTC 2003-50. According to this condition, the station will be operated as a Specialty format with at least 50 % spoken word.

10. Yet, on August 10, 2006, two months after the transfer of ownership had been approved (Broadcasting Public Notice CRTC 2006-71), TFG submitted an application to remove the conditions of licence defining CJEF-FM as a Specialty format. In the CAB's view, this course of action and the drastic change to the station's format clearly suggest that the intention of TFG's new owners was to compete with other commercial music stations in the Saint John radio market, rather than remain a complementary radio service in the market.
11. Finally, this application to transform a specialty programming radio service format to a music format station has occurred only three years after CJEF-FM was first licensed. The CAB notes that the Commission recently denied a similar application by Kesitah Inc. to delete conditions of licence related to the specialty format of its station CFEQ-FM Winnipeg (Broadcasting Decision CRTC 2006-562). Paragraph 22 of that decision states as follows:

The Commission notes that Kesitah's application requesting deletion of the condition of licence requiring that it provide a minimum amount of subcategory 35 – non-classic religious music was filed in CFEQ-FM's first licence term, during only its third year of operation... With approval of that application, CFEQ-FM would cease to operate in the Specialty format and, instead, would have the same format flexibility as that now available to the seven commercial FM stations in Winnipeg now licensed to broadcast 70% or more of all musical selection from category 2.

12. Given that the Specialty format and the conditions of licence imposed on TFG in 2003 were an important element of the Commission's determination to award a licence for CJEC-FM as an LPFM station, the CAB strongly believes that approval of the current application would eliminate key safeguards that ensure the complementary nature of this radio service.
13. For all of these reasons, the CAB respectfully submits that the Commission should deny TFG's application and should maintain all existing conditions of licence.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Pierre-Louis Smith', with a horizontal line underneath.

Pierre-Louis Smith
Vice-President
Policy & Regulatory Affairs (Radio)

c.c.: TFG Communications Inc. (via E-Mail: jeff@thepirate.ca)

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