



**Canadian  
Association of  
Broadcasters**

**L'Association  
canadienne des  
radiodiffuseurs**

January 29, 2008

*via E-pass*

Mr. Robert A. Morin  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, Ontario  
K1A 0N2

Dear Mr. Morin:

**Re: Broadcasting Public Notice CRTC 2007-143, Item 1 – Application No. 2007-1589-9 by TFG Communications Inc. (TFG) to amend the licence of CJEF-FM Saint John, New Brunswick**

1. The Canadian Association of Broadcasters (CAB) is the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private radio and television stations, networks, specialty, pay and pay-per-view services. The goal of the CAB is to represent and advance the interests of Canada's private broadcasters in the social, cultural and economic fabric of the country. The CAB 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 in 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 2007-143, the licensee is now proposing to offer a blend of Alternative Rock, Hip Hop and R&B musical selections, targeting the 18-34 year old demographic. The licensee also proposes that at least 50% of all musical selections from content category 2 (Popular Music) played both during the broadcast week and between 6 a.m. and 6 p.m. Monday through Friday be devoted to Canadian selections played in their entirety. The licensee also indicates that it would accept as a condition of licence to devote 15% of its musical selections to local (maritime) music.
4. The CAB submits that this application raises a number of concerns and should therefore be denied. The CAB notes that this is the second time that CJEF-FM has attempted to amend the terms of its licence relating to its format. Its first request was outlined in Broadcasting Public Notice CRTC 2006-131. The Commission denied that request in Broadcasting Decision CRTC 2007-101, *CJEF-FM Saint John – Licence Amendment* (28 March 2007).
5. CJEF-FM's most recent application is substantively similar to its previous one. The CAB, therefore, reiterates some of the concerns it expressed about that application, which it initially put forth in its submission dated November 17, 2006.
6. 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.*

7. 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 in October 2006, was to add a low-power transmitter at Rothesay to serve the population of Rothesay and its surrounding area.

8. In March 2006, the Commission approved the ownership transfer of the station. In the context of that ownership transfer, the new owner made assurances to the CRTC that it would adhere to the existing conditions of licence as set out in Broadcasting Decision CRTC 2003-50.
9. Despite that promise, and just months after the transfer of ownership had been approved, the new owner submitted an application in August 2006 to remove the conditions of licence defining CJEF-FM as a Specialty format. In the CAB's view, that course of action and the drastic change to the station's format clearly suggested 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 service in that market.
10. In that application, TFG indicated that it would offer a blend of Urban, Dance, Contemporary Hits Rock, Rock and Alternative musical selections targeting the 12-24 year old demographic. It also indicated that it would not compete with other stations in Saint John and that its playlist would not overlap that of any commercial station by more than 20%.
11. The CRTC denied that application in Broadcasting Decision 2007-101, *CJEF-FM Saint John – Licence amendment* (28 March 2007) on a number of grounds.
12. First, the Commission considered that:

*approval of the application would decrease the diversity that CJEF-FM provides to the Saint John market. Upon approval of the proposed amendments, CJEF-FM would have the same flexibility as other mainstream stations to freely adjust the types of popular music that it broadcasts. Although CJEF-FM indicated that its playlist would not overlap that of any commercial station by more than 20%, the Commission considers that this commitment, which would require constant monitoring of other radio stations in the market by the applicant, would be very difficult to implement. It would also be very difficult for the Commission and other broadcasters to assess TFG's compliance with this commitment.*

13. Second, the CRTC expressed concern that "approval of the application would serve to undermine the integrity of its licensing process" since the station was first licensed as a specialty comedy station and it was requesting a major change to its format while still in its first licence term. The Commission was "not convinced that it [CJEF-FM] has given the format on which it based its original application a fair try."
14. Third, CJEF-FM's original licence was granted without issuing a call for competing applications given that the CJEF-FM was a low-power station operating in a specialty format. The Commission did not want to allow the licensee to adopt a mainstream

format, and thus enter the mainstream commercial radio market by the “back door”, without opening the application up to a competitive process.

15. The CAB submits that all of these reasons for denying CJEF-FM’s previous amendment request remain applicable to the current application under consideration.
16. As the CAB pointed out in its November 16, 2006 submission, the combined signals of the station’s Saint John and Rothesay transmitters cover a substantial portion of the Saint John census metropolitan area. 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.
17. Furthermore, the CAB notes that CJEF-FM’s previous application indicated that it would target a 12-24 year old demographic and would involve this age group in some of its program production. The licensee argued that the 12-24 demographic was underserved in the Saint John market since “[c]ommercial music stations in the market, including K-100 (CIOK-FM), The Wave (CHWV-FM), C-98 (CJYC-FM), and Country 93 (CHSJ-FM), have target demographics that begin at or are above age 25.” This new application has shifted CJEF-FM’s proposed target audience to the 18-34 year old demographic, thus creating even further potential overlap and competition with existing commercial Saint John stations. The licensee also appears to have abandoned any intention of involving youth in program production.
18. CJEF-FM has also altered the list of musical genres it proposes to offer. Its 2006 application listed Urban, Dance, Contemporary Hits Rock, Rock and Alternative, while the present application covers Alternative Rock, Hip Hop and R&B. The CAB considers that this change is significant and that that the proposed amendments would result in a competitive station.
19. In its 2006 application, CJEF-FM insisted that its playlist would not overlap that of any other commercial station in the market by more than 20%. In its denial of that application, the CRTC indicated that such a promise would be difficult to monitor and enforce. In its present application, TFG refutes the CRTC’s argument and insists that CJEF-FM would monitor other stations’ playlists itself because it is in its own interest not to cross-over. The CAB believes that this approach would not adequately relieve the CRTC’s concerns in this regard.
20. The present application cites “interference” from other stations in maintaining a comedy format. CJEF-FM alleges that another broadcaster interfered with an arranged sponsorship agreement causing it to lose out on a key opportunity. While the CAB makes no comment with respect to the specifics of this situation, it would like to point out that such sponsorship and marketing arrangements are contractual agreements between two business entities and fall outside the jurisdiction of the CRTC. They should, therefore, not factor into any CRTC licensing decision.

21. Finally, the CAB notes that, once again, this proposed amendment is occurring within the station's first licence term. Indeed, this second request was made merely seven months after the Commission denied its previous similar application in March 2007.
22. 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 CJEF-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.
23. 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,

*Original signed by*

Pierre-Louis Smith  
Vice-President  
Policy & Chief Regulatory Officer

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

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