



## Broadcasting Decision CRTC 2014-633

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Route reference: Part 1 application posted on 7 May 2014

Ottawa, 8 December 2014

**Vista Radio Ltd.**  
Fort Erie, Ontario

*Application 2014-0372-4*

### **CFLZ-FM Fort Erie – Licence amendment**

*The Commission **denies** the application by Vista Radio Ltd. to amend the broadcasting licence for CFLZ-FM Fort Erie by suspending, to the end of the licence term, the condition of licence that requires CFLZ-FM to refrain from soliciting and accepting local advertising for broadcast during any broadcast week when less than one-third of the programming (42 hours) aired is local.*

*Approval of the application would result in a significant reduction in the amount of local programming for Fort Erie residents.*

### **Background**

1. CFLZ-FM Fort Erie, Ontario, is currently licensed as an English-language commercial radio station that originates programming. In September 2013, Vista Radio Ltd. (Vista) converted CFLZ-FM to a full-time rebroadcasting transmitter for CJED-FM, Niagara Falls without prior approval by the Commission.
2. This change placed CFLZ-FM in apparent non-compliance with the following conditions of licence that apply to the station:
  - Condition of licence 8 set out in Broadcasting Regulatory Policy 2009-62, which requires CFLZ-FM to refrain from soliciting and accepting local advertising for broadcast during any broadcast week when less than one-third of the programming (42 hours) aired is local.
  - Condition of licence 14 set out in Broadcasting Decision 2012-577, which requires CFLZ-FM to broadcast, at a minimum, three hours of news programming during each broadcast week. Of this amount, a minimum of 30% (54 minutes) each week must be devoted to local news of direct and particular relevance to Fort Erie and the Niagara region.

## **Application**

3. Subsequently, Vista filed an application to suspend, to the end of the licence term,<sup>1</sup> the condition of licence that requires CFLZ-FM to refrain from soliciting and accepting local advertising for broadcast during any broadcast week when less than one-third of the programming (42 hours) aired is local.
4. Vista indicated that it would continue to invest in local production and local programming broadcast by CFLZ-FM each year, beginning in September 2015. Accordingly, Vista stated that it would be willing to accept a condition of licence requiring the following minimum levels of local programming on CFLZ-FM:
  - 6 hours, beginning in September 2015;
  - 12 hours beginning in September 2016;
  - 27 hours beginning in September 2017; and
  - 42 hours beginning in September 2018.
5. Vista indicated that CFLZ-FM would continue to provide at least three hours of news during each broadcast week, of which at least 66% would be local news of direct and particular relevance to Fort Erie and the Niagara region. Vista submitted that this exceeds the minimum of 30% (54 minutes) of news that must be devoted to local news of direct and particular relevance to Fort Erie and the Niagara region required under a condition of licence set out in Broadcasting Decision 2012-577.
6. In support of its application, Vista submitted that when it acquired CFLZ-FM and CJED-FM Niagara Falls in 2012,<sup>2</sup> the stations were in disrepair, understaffed, had virtually no presence in the market, and were not operating on a financially sustainable basis. Vista attempted to strengthen the stations' performance as separate programming services but its efforts were not successful. Vista therefore decided to introduce a contemporary hit radio format on CJED-FM Niagara Falls and rebroadcast it on CFLZ-FM.
7. The Commission received one intervention in support of the application.

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

### **Change of CFLZ-FM to a rebroadcasting transmitter**

8. As indicated above, Vista eliminated local programming and converted CFLZ-FM to a full-time rebroadcasting transmitter of CJED-FM Niagara Falls in September 2013 without the Commission's approval.

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<sup>1</sup> CFLZ-FM's licence term ends on 31 August 2018.

<sup>2</sup> See Broadcasting Decision 2012-577.

9. Conversion of an originating station to a full-time rebroadcasting transmitter requires an application to the Commission. Such an application allows for the Commission to consider the impact of such a change on the local community that the station is licensed to serve. Accordingly, in the absence of an approval by the Commission, CFLZ-FM is still licensed as an originating FM station.

### **Local programming and local advertising**

10. As an originating FM station, CFLZ-FM is required to refrain from soliciting or accepting local advertising for broadcast during any broadcast week when less than one-third of the programming aired is local.
11. The definition of local programming set out in Broadcasting Public Notice 2006-158 reads as follows:

Local programming includes programming that originates with the station or is produced separately and exclusively for the station. *It does not include programming received from another station and rebroadcast simultaneously or at a later time*; nor does it include network or syndicated programming that is five minutes or longer unless it is produced either by the station or in the local community by arrangement with the station. (emphasis added)

In their local programming, licensees must incorporate spoken word material of direct and particular relevance to the community served. This must include local news, weather, sports coverage, and the promotion of local events and activities.

12. As a result of Vista's conversion of CFLZ-FM Fort Erie to a rebroadcasting transmitter of CJED-FM without Commission approval, CFLZ-FM no longer broadcasts any local programming according to the definition set out above, given that CFLZ-FM's programming does not originate with the station nor is produced separately and exclusively for the station. Under this scenario, CFLZ-FM may not solicit or accept local advertising for broadcast.
13. The requirement to devote at least one-third of the broadcast week to local programming before a station can solicit or accept local advertising is based on the policy that a licensee should only be able to generate revenue from a community if it is providing a strong local service. Under Vista's proposal, CFLZ-FM would be able to continue to solicit and accept local advertising even though it would not devote one-third (42 hours) of its schedule to local programming until September 2018. This would significantly decrease the level of local programming for Fort Erie residents.
14. In the absence of local programming, CFLZ-FM is also in apparent non-compliance with its condition of licence with respect to local news programming whereby CFLZ-FM is required to broadcast, at a minimum, three hours of news programming during each broadcast week. Of this amount, a minimum of 30% (54 minutes) must be devoted to local news of direct and particular relevance to Fort Erie and the Niagara Region.

15. While acknowledging that CFLZ-FM faces financial challenges, these challenges were already present when Vista acquired the station. The Commission is not convinced that the applicant's proposal to temporarily reduce local programming would ensure the financial viability of the station or ensure an adequate level of local programming for residents of Fort Erie.
16. In light of all of the above, the Commission **denies** the application by Vista Radio Ltd. to amend the broadcasting licence for CFLZ-FM Fort Erie by suspending, to the end of the licence term, the condition of licence that requires CFLZ-FM to refrain from soliciting and accepting local advertising for broadcast during any broadcast week when less than one-third of the programming (42 hours) aired is local.
17. The Commission further requires the licensee to:
- resume, by **18 December 2014**, local programming on CFLZ-FM and provide details on (a) the number of hours of local programming that will be broadcast, (b) the manner in which the local programming that is to be broadcast will meet the particular needs and interests of the Fort Erie population, and (c) how CFLZ-FM will comply with:
    - condition of licence 8 set out in Broadcasting Regulatory Policy 2009-62, which requires that CFLZ-FM refrain from soliciting or accepting local advertising for broadcast during any broadcast week when less than one-third of the programming aired is local; and
    - condition of licence 14 set out in Broadcasting Decision 2012-577, which requires CFLZ-FM to broadcast, at a minimum, three hours of news programming during each broadcast week. Of this amount, a minimum of 30% (54 minutes) each week must be devoted to local news of direct and particular relevance to Fort Erie and the Niagara region; or
  - file, by **26 January 2015**, an application to convert CFLZ-FM to a rebroadcasting transmitter for CJED-FM Niagara Falls and to revoke CFLZ-FM's licence. Under this scenario, the licensee would be prohibited from soliciting or accepting local Fort Erie advertising.

Secretary General

### **Related documents**

- *Various radio programming undertakings – Acquisition of assets*, Broadcasting Decision CRTC 2012-577, 19 October 2012
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice 2006-158, 15 December 2006