



Broadcasting Decision CRTC 2013-144

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Route reference: 2012-457

Ottawa, 21 March 2013

HFX Broadcasting Inc.
Halifax, Nova Scotia

Application 2011-0122-9, received 27 January 2011

CKHZ-FM Halifax – Licence renewal

The Commission renews the broadcasting licence for the English-language commercial radio station CKHZ-FM Halifax from 1 April 2013 to 31 August 2019.

The Commission denies the licensee's request to decrease the level of Canadian popular music selections it is required to broadcast between 6 a.m. and 6 p.m. Monday to Friday from 40% to 35%.

Further, to ensure that the licensee meets its outstanding commitments to the development of Canadian talent, the Commission imposes a condition of licence requiring the licensee to contribute \$35,787 to eligible Canadian content development (CCD) initiatives by 31 August 2013. This contribution is in addition to the required basic annual contribution to CCD set out in section 15 of the Radio Regulations, 1986.

Introduction

1. HFX Broadcasting Inc. (HFX Broadcasting) applied to renew the broadcasting licence for the English-language commercial radio station CKHZ-FM Halifax. The licence expires 31 March 2013.¹ The Commission did not receive any interventions concerning this application.
2. The licensee proposed to delete its condition of licence concerning contributions to Canadian talent development (CTD) set out in Broadcasting Decision 2004-514. The licensee indicated that it had completed the \$1 million contribution required by that condition of licence as of 31 August 2011. The licensee stated that in the future it wished to make a basic contribution to Canadian content development (CCD) at the level set out in section 15 of the *Radio Regulations, 1986* (the Regulations). In Broadcasting Public Notice 2006-158, the Commission replaced the expression CTD with CCD and set out a list of eligible CCD initiatives. The CCD regime was later put

¹ The original licence expiry date for this station was 31 August 2011. The licence was administratively renewed from 1 September 2011 to 31 March 2013 as a result of Broadcasting Decisions 2011-558-1, 2011-790 and 2012-456.

into effect through changes to the Regulations. Under the CCD regime, licensees are required to adhere to section 15 of the Regulations, but may also propose additional contributions to CCD, which are generally set out in conditions of licence.

3. HFX Broadcasting also proposed to decrease the minimum level of Canadian popular music selections it is required to broadcast between 6 a.m. and 6 p.m. Monday to Friday from 40% to 35%, which is the minimum level set out in section 2.2(9) of the Regulations. According to the licensee, this amendment would allow for more programming flexibility to address increased competition in the market.

Commission's analysis and decisions

4. After examining the application in light of applicable regulations and policies, the Commission considers that the issues to be addressed are the following:
 - CCD contributions; and
 - the request to decrease the level of Canadian popular music selections.

Canadian content development contributions

5. As set out in Broadcasting Decision 2004-514, the licensee's current condition of licence relating to CTD for CKHZ-FM requires it to contribute \$1 million in direct expenditures as follows:

Years 1, 2 and 3	\$100,000 annually
Year 4	\$150,000
Years 5 and 6	\$175,000 annually
Year 7	\$200,000

6. The Commission notes that CKHZ-FM commenced operations in the 2005-2006 broadcast year. Consistent with Broadcasting Information Bulletin 2009-251, the licensee should have made a pro-rated payment in that year of \$16,666 and paid the remainder (\$83,334) of the amount owed for the first year of operations (\$100,000) following the seventh year of operation in the 2012-2013 broadcast year. Instead, the licensee made no contribution in the 2005-2006 broadcast year and increased its contribution in the 2006-2007 broadcast year to include the \$100,000 owed for the first year of operations.
7. The licensee claimed a total of \$1,329,601 in CTD expenditures from the 2006-2007 to 2011-2012 broadcast years. The Commission has determined that certain expenses claimed for the Summer Rush Concert for the 2007-2008 to 2009-2010 broadcast years were ineligible. Specifically, the licensee did not deduct revenues from ticket sales from its total expenses and included payments to non-Canadian artists, which are ineligible. The ineligible expenses amount to \$365,388 and are calculated as set

out in the Commission's clarification letters, which are part of the public file for this proceeding. The Commission therefore concludes that the licensee contributed \$964,213 in eligible expenses over six broadcast years.²

8. In light of the above, the Commission finds that the licensee did not complete its required \$1 million contribution, leaving an amount due of \$35,787. Accordingly, the Commission considers it appropriate to impose a **condition of licence** requiring the licensee to make a \$35,787 contribution to CCD by **31 August 2013**. Given that the licensee's future CCD contributions will be made in line with the CCD regime set out in section 15 of the Regulations, the Commission has also deleted the current condition of licence relating to CTD payments.

Request to decrease the level of Canadian popular music selections

9. The Commission notes that the licence for CKHZ-FM was granted as part of a competitive process. The Commission granted the licence to HFX Broadcasting in Broadcasting Decision 2004-514 based in part on the quality of the application proposed.
10. The Commission notes that the level of Canadian content is an equally important element in its assessment of applications for new commercial radio services whether they are treated as part of a competitive or non-competitive licensing process. In this case, the licensee's commitment to exceed the regulatory minimum for Canadian content was an important factor in the awarding of the licence for CKHZ-FM.
11. The Commission further notes that CKHZ-FM is not restricted by a specialty format condition of licence and that it has the flexibility to offer a wide range of music from content category 2 (Popular Music). As such, HFX Broadcasting is free to broaden its existing music offering by including selections from other musical genres to fulfill its requirement relating to Canadian popular music selections. The Commission considers that the licensee did not provide any evidence that its 40% Canadian content level places CKHZ-FM at a competitive disadvantage in Halifax, nor that there is a limited source of Canadian popular musical selections to warrant a reduction in its Canadian content level.
12. In light of the above, the Commission **denies** the applicant's request to decrease the level of Canadian popular music selections it is required to broadcast between 6 a.m. and 6 p.m. Monday to Friday from 40% to 35%.

Conclusion

13. The Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CKHZ-FM Halifax from 1 April 2013 to

² Since the licensee has been renewed administratively since 31 August 2011, the Commission did not conduct audits of the CCD contributions for the 2010-2011 and 2011-2012 broadcast years.

31 August 2019. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

Related documents

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2012-456, 28 August 2012
- *Administrative renewals*, Broadcasting Decision CRTC 2011-790, 19 December 2011
- *Administrative renewals – Corrections*, Broadcasting Decision CRTC 2011-558-1, 23 September 2011
- *Clarifications regarding Canadian content development contributions made by commercial radio stations*, Broadcasting Information Bulletin CRTC 2009-251, 5 May 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Youth Contemporary FM radio station in Halifax*, Broadcasting Decision CRTC 2004-514, 26 November 2004

**This decision is to be appended to the licence.*

Appendix to Broadcasting Decision CRTC 2013-144

Terms, conditions of licence, expectation and encouragement for the English-language commercial radio programming undertaking CKHZ-FM Halifax

Terms

The licence will expire 31 August 2019.

Conditions of licence

1. The licensee shall adhere 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. 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*, the licensee shall devote to Canadian selections broadcast in their entirety:
 - a) at least 40% of its musical selections from content category 2 (Popular Music) in each broadcast week; and
 - b) at least 40% of its musical selections from content category 2 between 6 a.m. and 6 p.m in any period beginning on Monday of a week and ending on Friday of the same week.
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 make a contribution of \$35,787 to eligible CCD initiatives by 31 August 2013. Parties and initiatives fulfilling the definition of eligible initiatives are set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

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.