



Broadcasting Decision CRTC 2013-439

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Route reference: 2013-220

Ottawa, 26 August 2013

Radio Acadie Itée
Caraquet, New Brunswick

Application 2012-1375-1, received 29 October 2012

CJVA Caraquet – Licence renewal

*The Commission **renews** the broadcasting licence for the commercial radio station CJVA Caraquet, New Brunswick from 1 September 2013 to 31 August 2018. This short-term renewal will allow for an earlier review of the licensee's compliance with its conditions of licence and with the Radio Regulations, 1986.*

Introduction

1. Radio Acadie Itée filed an application to renew the broadcasting licence for the commercial radio station CJVA Caraquet, New Brunswick, which expires 31 August 2013.¹ The Commission did not receive any interventions in connection with this application.

Non-compliance

2. In Broadcasting Notice of Consultation 2013-220, the Commission noted that the licensee was in apparent non-compliance with:
 - its condition of licence relating to Canadian talent development (CTD) contributions for the 2007-2008 broadcast year;
 - section 15 of the *Radio Regulations, 1986* (the Regulations), as it relates to contributions to Canadian content development (CCD) for each of the 2008-2009 and 2009-2010 broadcast years; and
 - section 9(2) of the Regulations as it relates to the filing of complete annual returns for the 2009-2010 broadcast year in that it did not file financial statements with the return.

¹ The original expiry date for CJVA's broadcasting licence was 31 August 2012. This broadcasting licence was administratively renewed until 31 August 2013 as a result of Broadcasting Decision 2012-447.

3. The licensee incurred shortfalls with respect to CTD/CCD² in the 2007-2008, 2008-2009 and 2009-2010 broadcast years. The licensee submitted that it was unable to obtain clarifications from MUSICACTION about its required contributions, and that it was unaware that payments had to be made in the same broadcast year that they were due. The licensee has since provided proof that it has made up the shortfalls.
4. With respect to annual returns, section 9(2) of the Regulations requires licensees to file an annual return by 30 November of each year for the broadcast year ending the previous 31 August. The filing requirements, including the requirement to submit financial statements, are set out in Broadcasting Information Bulletin 2011-795.
5. As indicated above, the licensee did not include the required financial statements with its 2009-2010 annual return. The licensee indicated that it had engaged a new accounting firm that was unfamiliar with the Commission's requirements and has now filed the missing statements.
6. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence relating to CTD, with section 15 of the Regulations relating to CCD, and with section 9(2) of the Regulations relating to the filing of annual returns.

Regulatory measures

7. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to non-compliance by radio stations. Specifically, the Commission indicated that each instance of non-compliance would be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also indicated that it would consider the circumstances of the non-compliance, the arguments provided by the licensee and the measures taken to rectify the situation.
8. The Commission considers that initiatives relating to the development of Canadian content and talent will not only help to develop and advance the careers of emerging Canadian artists but will increase the supply of high-quality Canadian music in a variety of genres and the demand for Canadian music by listeners. Accordingly, it is important that radio licensees make their required contributions.
9. In this case, the Commission notes that the licensee has indicated that it is now aware of the amount of CCD contributions it has to make, when to make them and to whom. It has also informed its accountants of the seriousness of fulfilling the Commission's requirements. Further, licensee has provided proof of payment indicating that it has made up all remaining shortfalls in its CTD/CCD contributions.

² The Commission replaced the expression "Canadian talent development" with "Canadian content development" in *Commercial Radio Policy 2006* set out in Broadcasting Public Notice 2006-158.

10. With respect to annual returns, the Commission notes the explanation provided by the licensee. However, it reminds the licensee that, as stated in Broadcasting Information Bulletin 2011-795, it is its responsibility to ensure that all appropriate forms and documentation are included with the submission of its annual returns. If further clarification is required, it is the licensee's responsibility to contact the Commission for further direction.
11. In this case, the Commission is of the view that the failure to provide complete annual returns was an isolated incident and that the licensee has put mechanisms in place to ensure that it files complete annual returns in the future.
12. Given the circumstances surrounding the non-compliance for Radio Acadie ltée, the Commission considers it appropriate to grant a five-year renewal for CJVA.

Conclusion

13. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial radio programming undertaking CJVA Caraquet, New Brunswick from 1 September 2013 to 31 August 2018. The licence will be subject to the **conditions** set out in Broadcasting Regulatory Policy 2009-62. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements.
14. Pursuant to section 22 of the *Broadcasting Act*, the Commission reminds the licensee that the broadcasting licence will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Encouragement

15. In accordance with Public Notice CRTC 1992-59, 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.

Secretary General

Related documents

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2013-220, 7 May 2013
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2012-447, 17 August 2012, as corrected by Broadcasting Decision CRTC 2012-447-1, 22 August 2012
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011

- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *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 CRTC 2006-158, 15 December 2006
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

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