



Broadcasting Decision CRTC 2013-452

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Route reference: 2013-220

Ottawa, 28 August 2013

CIMM-FM Radio Ltd.
Ucluelet, British Columbia

Application 2012-1441-0, received 13 November 2012

CIMM-FM Ucluelet – Licence renewal

*The Commission **renews** the broadcasting licence for the commercial radio station CIMM-FM Ucluelet from 1 September 2013 to 31 August 2016. This short-term renewal will allow for an earlier review of the licensee's compliance with its conditions of licence and the Radio Regulations, 1986.*

Introduction

1. CIMM-FM Radio Ltd. filed an application to renew the broadcasting licence for the commercial radio station CIMM-FM Ucluelet, British Columbia, which expires 31 August 2013.¹ The Commission did not receive any interventions regarding 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) for the 2007-2008 to 2010-2011 broadcast years.
3. According to CIMM-FM's condition of licence relating to CTD contributions (\$2,400 a year), the licensee should have contributed a total of \$9,600 over the four aforementioned broadcast years. The Commission notes that the licensee submitted proof of payments for some of the CTD contributions made. The Commission can only consider the CTD contributions where proof of payments has been submitted. Given the documentation received, the Commission considers that CIMM-FM's total CTD contributions amount to \$1,653.
4. The licensee indicated that it did not believe that it was in non-compliance with its CTD requirements (resulting in a shortfall totalling \$7,225) and provided documentation in support of its position. It also noted that the station had experienced

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

significant financial hardships. However, it expressed a willingness to conform to any decision the Commission might choose to make in its case.

5. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence relating to CTD for the 2007-2008 to 2010-2011 broadcast years.

Regulatory measures

6. 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.
7. 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 to the development of Canadian content and talent.
8. Licensees are required to provide details about the CTD projects funded by their stations with their annual returns on the Canadian content development (CCD) forms.²
9. When documenting contributions to organizations other than FACTOR or MUSICACTION, licensees must provide sufficient details to demonstrate how a particular initiative meets the eligibility criteria. Supporting documentation must also demonstrate how the funds were actually used (i.e. the name of the recipient of the CTD payment, the amount paid, the cheque and/or invoice number and the proof of payment, such as copies of cancelled cheques or receipts).
10. Links between all supporting documentation and the payments made, as identified in the CCD form, should be clearly set out in the supporting documentation.
11. After engaging in several discussions with the licensee, the Commission is of the view that the licensee now understands the importance of submitting the necessary documentation to support all of its CTD/CCD contributions and consequently does not anticipate any non-compliance issues regarding these contributions in the future.

² In Broadcasting Public Notice 2006-158, the Commission replaced the CTD regime with the CCD regime.

12. The Commission therefore considers that the appropriate measure is a short-term renewal of three years for CIMM-FM, the length of which reflects the nature and extent of the non-compliance.
13. The Commission also notes that the licensee made a CTD overpayment of \$1,022 in the 2006-2007 broadcast year. The Commission has therefore deemed it appropriate to apply this overpayment to the remaining shortfall, thereby reducing it to \$6,925.

Conclusion

14. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial radio programming undertaking CIMM-FM Ucluelet, British Columbia, from 1 September 2013 to 31 August 2016. The terms and **conditions of licence** are set out in the appendix to this decision.
15. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory requirements. The short-term renewal granted in this decision will allow for an earlier review of the licensee's compliance with its conditions of licence and the *Radio Regulations, 1986* (the Regulations).
16. The Commission directs the licensee to expend the CTD shortfall totaling \$6,925 to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of Broadcasting Public Notice 2006-158 and to provide proof of this payment **within 90 days of the date of this decision**.
17. The Commission notes that on 1 September 2013, CIMM-FM's condition of licence relating to CTD will have lapsed and the licensee will be subject to section 15 of the Regulations.

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
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

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

Appendix to Broadcasting Decision CRTC 2013-452

Terms, conditions of licence and encouragement for the commercial radio programming undertaking CIMM-FM Ucluelet, British Columbia

Terms

The licence will expire 31 August 2016.

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, as amended from time to time, with the exception of condition of licence 8, relating to single-station markets.
2. During each broadcast week, the licensee shall devote a minimum of three hours to programming in Aboriginal languages and an additional three hours for use by local First Nations groups.

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.