



Broadcasting Decision CRTC 2017-452

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Reference: Part 1 licence renewal application posted on 27 April 2017

Ottawa, 18 December 2017

Dufferin Communications Inc.
Orangeville, Ontario

Public record for this application: 2016-0635-2

CIDC-FM Orangeville – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CIDC-FM Orangeville, Ontario, from 1 January 2018 to 31 August 2023.*

This short-term renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.

Application

1. Dufferin Communications Inc. (Dufferin) filed an application to renew the broadcasting licence for the English-language commercial radio station CIDC-FM Orangeville, Ontario, which expires 31 December 2017.¹ The Commission did not receive any interventions regarding this application.

Commission's analysis and decisions

2. After examining the public record for this application, the Commission finds that the issues it must address relate to the following:
 - the licensee's apparent non-compliance with requirements relating to the submission of radio monitoring materials;
 - local programming and reflection; and
 - the broadcast of music montages on CIDC-FM.

Submission of radio monitoring materials

3. Sections 8(1) through (6) of the *Radio Regulations, 1986* (the Regulations) set out requirements relating to keeping, retaining and furnishing to the Commission audio

¹ In Broadcasting Decision 2017-318, the Commission administratively renewed the broadcasting licence for CIDC-FM from 1 September 2017 to 31 December 2017.

recordings and program logs. Section 9(3)(b) of the Regulations sets out the information on musical selections that licensees must include when filing music lists for any period specified by the Commission.

4. In regard to CIDC-FM, Dufferin submitted incomplete and inaccurate audio recordings and program logs for the 22 to 28 November 2015 broadcast week. Specifically, two 15-minute segments were missing from the audio recordings submitted, and the program logs and music lists did not include certain required information specified in sections 8(1)(c)(iv) and 9(3)(b) of the Regulations.
5. Dufferin stated that technical glitches, outdated software and human error were responsible for these instances of non-compliance. It noted that corrective measures have been put in place, including various upgrades for recordings and more accurate program logs and music lists, and that daily checks are being performed to ensure compliance.
6. In light of the above, the Commission finds Dufferin in non-compliance with sections 8(1), (2), (4), (5) and (6), and 9(3)(b) of the Regulations.

Local programming and reflection

7. In Broadcasting Public Notice 2006-158, the Commission specified that one-third of the programming broadcast by FM stations in competitive markets must be local programming. The Commission further specified that 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.
8. The Commission has monitored programming broadcast on CIDC-FM and finds that it contained very little locally reflective content with direct and particular relevance to Orangeville, the community the station was licensed to serve. Rather, CIDC-FM's programming (including station identifications, advertisements, news, weather, traffic and sports reports, and promotions for local events and activities) targeted the Greater Toronto Area, often without specific mention of Orangeville.
9. Dufferin submitted that Orangeville is an integral and material part of the Toronto Census Metropolitan Area, and indicated that CIDC-FM will continue to serve both. The licensee added that it would proceed with its current operations to ensure that the station's programming is oriented towards the local Orangeville community, with further improvements to be made where required.
10. In a letter dated 18 April 2017, the licensee was asked to comment on the possible imposition of conditions of licence that would require that:
 - all on-air station identification announcements for CIDC-FM include specific reference to Orangeville and refrain from exclusive reference to Toronto;

- all programming broadcast on CIDC-FM include, on a regular basis during each broadcast day, coverage of local news, sports and events that is of direct and particular relevance to Orangeville, and refrain from making exclusive reference to Toronto; and
 - all programming broadcast on CIDC-FM include, on a regular basis during each broadcast day, traffic and weather reports specific to the areas within the radio station's market, including Orangeville, and refrain from exclusive reference to Toronto.
11. In its reply letter dated 25 April 2017, Dufferin stated that its “marketing IDs” always mention its licence area and never make exclusive reference to the City of Toronto. It nevertheless indicated that it would accept a condition of licence relating to the broadcast of Orangeville-specific station identification announcements as long as all other broadcasters are subject to a comparable requirement. In regard to the station's programming, Dufferin submitted that news, sports and events coverage should not be restricted to Orangeville as many residents work outside the community. It added that Orangeville proper does not have a traffic problem that requires constant up-to-the-minute reporting.
12. Given Orangeville's proximity to Toronto and the lack of Orangeville programming on CIDC-FM, the Commission finds that additional measures are necessary to ensure that the station fulfils the requirements relating to the broadcast of local programming set out in Broadcasting Public Notice 2006-158, and to ensure that the station serves its licensed service area with programming of direct and particular relevance to the local community in Orangeville. Accordingly, the Commission will require the licensee to ensure that:
- all station identification announcements broadcast on CIDC-FM make specific reference to Orangeville, and do not refer exclusively to Toronto;
 - the station provides, on a regular basis during each broadcast day, coverage of local news, sports, events and activities that take place in Orangeville and are of direct and particular relevance to Orangeville, and that do not relate exclusively to Toronto; and
 - the station provides, on a regular basis during each broadcast day, traffic and weather reports that are of direct and particular relevance to areas within the station's authorized market, including Orangeville, and that do not relate exclusively to Toronto.
13. **Conditions of licence** to that effect are set out in the appendix to this decision. These conditions of licence do not prohibit the licensee from including Toronto content in its broadcasts, but aim to ensure that CIDC-FM broadcasts programming that refers and relates to Orangeville, the market it was licensed to serve.

Broadcast of music montages

14. In a letter dated 5 January 2017, the Commission questioned Dufferin on CIDC-FM's apparent non-compliance with section 2.2(8) of the Regulations, which requires licensees of commercial FM radio stations to devote in each broadcast week at least 35% of the station's content category 2 (Popular Music) musical selections to Canadian selections broadcast in their entirety.
15. In its reply letter dated 12 January 2017, Dufferin submitted that it is fully compliant with the above requirement. In this regard, it noted that it had failed to identify musical selections broadcast during certain programming segments as montages, and stated that identifying those selections as montages would have resulted in the above 35% requirement being met.² The licensee added that changes have been made to CIDC-FM's programming, including the identification of montages and calculations of Canadian content, to ensure that confusion with montages and non-compliance with section 2.2(8) of the Regulations is avoided going forward.
16. The Commission agrees with Dufferin that re-identifying certain programming segments broadcast on CIDC-FM as montages results in those segments counting as Canadian musical selections, and allows the station to meet the above-noted 35% requirement.
17. However, the re-identification of certain programming segments as montages also results in the licensee exceeding the maximum amount of montages to be broadcast each broadcast week, as set out in Broadcasting Information Bulletin 2011-728. In that information bulletin, the Commission expressed the view that any broadcaster that would devote more than 10% of its programming over the broadcast week to montages would appear to have failed to meet the objectives of the regulatory framework and the intent of the policy on montages.
18. The Commission is concerned with the licensee's understanding of its regulatory obligations relating to the broadcast of Canadian content and montages. In the Commission's view, Dufferin, as an experienced broadcaster that is owned by Evanov Radio Group (which owns and operates multiple radio stations across Canada) should have been fully aware of its regulatory obligations, and should have mechanisms in place to ensure that all of its stations are operated in compliance at all times with requirements relating to the broadcast of Canadian content and montages.
19. Consequently, the Commission **directs** Dufferin to file a report, by **5 February 2018**, explaining how the broadcast of montages on CIDC-FM will, going forward, meet the Commission's objectives and expectations relating to montages, set out in Broadcasting Information Bulletin 2011-728. This report must include specific details setting out how programming segments will be identified as montages.

² Pursuant to the Regulations, a montage counts as one musical selection.

Regulatory measures

20. The Commission's approach to non-compliance by radio stations is set out in Broadcasting Information Bulletin 2014-608. Under that approach, each instance of non-compliance is evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The circumstances leading to the non-compliance, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
21. As set out in Broadcasting Regulatory Policy 2014-554, for stations that are in non-compliance, and depending on the nature of the non-compliance, the Commission may apply, on a case-by-case basis, measures such as renewing the licence for a short term; imposing additional conditions of licence; calling the licensee to a public hearing to respond to and discuss apparent non-compliance; issuing a mandatory order requiring the licensee to comply with regulatory requirements; or suspending, not renewing, or revoking the licence.
22. In regard to CIDC-FM and the licensee's non-compliance with sections 8(1), (2), (4), (5) and (6), and 9(3)(b) of the Regulations, this is the first instance of non-compliance for Dufferin over the station's last three licence terms. The Commission therefore considers that it would be appropriate to renew the station's broadcasting licence for a period of six years (which takes into account the four-month period for which the licence was administratively renewed in Broadcasting Decision 2017-318).
23. This short-term renewal will allow for an earlier review of the licensee's compliance with the Regulations and its station's conditions of licence.

Conclusion

24. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CIDC-FM Orangeville from 1 January 2018 to 31 August 2023. The **conditions of licence** are set out in the appendix to this decision.

Reminders

25. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. The submission of complete and accurate audio recordings, program logs and music lists enables the Commission to conduct an analysis of a station's programming to verify compliance with regulatory requirements and conditions of licence. The retention of complete and accurate radio monitoring materials also makes it possible for the Commission to investigate a station's programming in the case of complaints. As such, any licensee that does not file requested material in a timely manner, files material that is incomplete, or does not file such material at all, affects the ability of the Commission to adequately perform its duty to independently confirm the licensee's adherence to regulatory and licence requirements. These filings also become important indicators of whether the licensee

has the willingness, ability and knowledge necessary to bring itself into compliance and maintain such compliance.

26. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Cultural diversity

27. The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

Employment equity

28. In accordance with Public Notice 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

- *Various radio stations – Administrative renewals*, Broadcasting Decision CRTC 2017-318, 31 August 2017
- *Update on the Commission’s approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014
- *Requirements for the broadcast of radio montages*, Broadcasting Information Bulletin CRTC 2011-728, 24 November 2011
- *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.

Appendix to Broadcasting Decision CRTC 2017-452

Terms and conditions of licence for the English-language commercial radio programming undertaking CIDC-FM Orangeville

Terms

The licence will expire 31 August 2023.

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, with the exception of condition of licence 7, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. The licensee shall broadcast programs received from studios located at Etobicoke, Ontario.
3. The licensee is authorized to use a Subsidiary Communications Multiplex Operations (SCMO) channel for the purpose of distributing ethnic programming in the German language.
4. The licensee shall ensure that all station identification announcements broadcast on CIDC-FM Orangeville make specific reference to Orangeville, Ontario and do not refer exclusively to Toronto, Ontario.
5. The licensee shall ensure that CIDC-FM Orangeville provides, on a regular basis during each broadcast day, coverage of local news, sports, events and activities that take place in Orangeville, Ontario and are of direct and particular relevance to Orangeville, and that do not relate exclusively to Toronto, Ontario.
6. The licensee shall ensure that CIDC-FM Orangeville provides, on a regular basis during each broadcast day, traffic and weather reports that are of direct and particular relevance to areas within the station's authorized market, including Orangeville, Ontario, and that do not relate exclusively to Toronto, Ontario.