



Broadcasting Decision CRTC 2017-454

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Reference: Part 1 licence renewal application posted on 13 April 2017

Ottawa, 19 December 2017

I.T. Productions Ltd.

Vancouver, British Columbia

Public record for this application: 2016-1035-3

CJRJ Vancouver – Licence renewal

*The Commission **renews** the broadcasting licence for the commercial ethnic AM radio station CJRJ Vancouver from 1 January 2018 to 31 August 2020.*

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

Application

1. I.T. Productions Ltd. filed an application to renew the broadcasting licence for the commercial ethnic AM radio station CJRJ Vancouver, British Columbia, which expires 31 December 2017.¹ The Commission did not receive any interventions regarding this application.

Background

2. In Broadcasting Decision 2013-164, the Commission renewed the broadcasting licence for CJRJ for a short-term period due to the licensee's non-compliance relating to the filing of annual returns and contributions to Canadian talent development (CTD).

Non-compliance

Filing of annual returns

3. Section 9(2) of the *Radio Regulations, 1986* (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 specific filing requirements, including the requirement to file financial statements, are set out in Broadcasting Information Bulletin 2011-795.

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

4. According to the Commission's records, CJRJ's annual returns for the 2012-2013, 2014-2015 and 2015-2016 broadcast years were filed on time but were incomplete.
5. The licensee indicated that it was unaware that it was deficient in this regard, adding that it would stay in touch with Commission staff to ensure that everything was filed properly in the future.
6. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations for the 2012-2013, 2014-2015 and 2015-2016 broadcast years. In addition, the Commission **directs** the licensee to file the missing financial statements for the 2015-2016 broadcast year by **31 January 2018**. A **condition of licence** to that effect is set out in Appendix 1 to this decision.

Canadian content development

7. As set out in Broadcasting Decision 2013-164, in order to fulfill the remainder of the CTD commitments made when the licence for the station was granted, the licensee was required by condition of licence to contribute \$70,000 in each broadcast year (for a total of \$350,000 by the end of the current licence term) to eligible Canadian content development (CCD) initiatives. To provide the licensee with additional flexibility and given its severe financial difficulties, the Commission also deemed it appropriate to exempt the licensee by condition of licence from the basic annual CCD contributions required under section 15 of the Regulations for the licence term.
8. According to the Commission's records, the licensee has incurred a total CCD shortfall of \$202,138 over the current licence term, including the 2016-2017 broadcast year.
9. Specifically, the licensee claimed \$248,902.91 in its annual return for the 2016-2017 broadcast year towards meeting its CCD requirements but failed to provide documentation regarding the use of the funds or the eligibility for \$102,502.91 of the payments. Therefore, the Commission cannot consider this amount eligible. In addition, the licensee claimed amounts in its annual returns towards meeting CCD requirements in the 2012-2013 to 2015-2016 broadcast years, but most of the payments were not supported with adequate documentation and thus cannot be considered eligible. Finally, the licensee claimed in-kind expenditures, such as the exchange of services or the gift of airtime for promotional purposes, during several years of the current licence term. However, as the Commission noted in Broadcasting Decision 2013-164, such contributions are ineligible.
10. Based on the preceding, the Commission finds the licensee in non-compliance with its condition of licence relating to CCD contributions for the current licence term. A **condition of licence** relating to the CCD shortfall is set out in Appendix 1 to this decision.

Regulatory measures

11. 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.
12. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. Compliance with deadlines for the filing of complete annual returns is important because it enables the Commission to monitor a licensee's performance and compliance with regulations and conditions of licence. Further, a licensee that does not file requested material in a timely manner 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 necessary knowledge to bring itself into compliance and maintain such compliance. Accordingly, the Commission views such non-compliance as very serious.
13. Similarly, the non-compliance relating to unpaid CCD contributions represents a significant CCD shortfall and is recurrent over a second consecutive licence term. Under its approach to non-compliance, the Commission may as a remedial measure for the harm caused to the broadcasting system require the licensee to pay an additional CCD contribution equivalent to the amount of the shortfall, as well as repay any outstanding amount. When questioned regarding the imposition of an additional CCD contribution as a corrective measure, the licensee stated that in the event that it was not able to complete its CCD contributions by the end of August 2017, it would accept a requirement to pay an additional \$35,000 for each of the 2017-2018 and 2018-2019 broadcast years, as well as the outstanding amount from this licence term. The Commission has set out a **condition of licence** to that effect in Appendix 1 to this decision.
14. Given that this is the second consecutive licence term in which CJRJ has been found in non-compliance with section 9(2) of the Regulations regarding the filing of annual returns as well as its obligations relating to contributions to CTD/CCD, the Commission finds it appropriate to renew the licence for the station for a short-term period of three years.
15. Further, considering the serious and repeated nature of CJRJ's non-compliance, the Commission finds it appropriate to require the licensee to broadcast an announcement regarding its non-compliance three times a day for five consecutive days within the 14-day period following the beginning of the new licence term.² This announcement

² This measure is set out in Broadcasting Regulatory Policy 2014-554.

is to be distributed in a reasonable manner between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m. To confirm compliance with this requirement, the licensee must provide to the Commission the audio recordings for the broadcast days during which the announcement was broadcast and file by no later than 14 days following the final broadcast of the announcement a completed and signed *Attestation as to the broadcast of the non-compliance announcement on CJRJ Vancouver*, as set out in Appendix 2 to this decision. A **condition of licence** to that effect is set out in Appendix 1 to this decision.

Conclusion

16. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial ethnic AM radio programming undertaking CJRJ Vancouver from 1 January 2018 to 31 August 2020. The **conditions of licence** are set out in Appendix 1 to this decision.
17. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory obligations. The short-term licence renewal granted in this decision will allow for an earlier review of the licensee's compliance with regulatory requirements.

Reminders

18. Licensees are responsible for filing complete annual returns on time, including financial returns. In addition, as set out in Broadcasting Information Bulletin 2011-795, it is the licensee's responsibility to ensure that all appropriate forms and documentation are included with its annual returns and to contact the Commission if further clarification is required.
19. It is important that radio station licensees make their required contributions to CCD, given that CCD initiatives not only help to develop and advance the careers of emerging Canadian artists, but increase the supply of high-quality Canadian music in a variety of genres and the demand for Canadian music by listeners. The non-payment of CCD contributions therefore has the potential to cause harm to the Canadian broadcasting system.
20. It is incumbent upon licensees to provide proof of payment to such initiatives by the required deadlines. They must also provide sufficient documentation to support the eligibility of their contributions. Failure to do so may result in the Commission finding a contribution ineligible, which in turn may affect a station's compliance with regulatory obligations. Moreover, licensees must ensure that expenditures are not self-serving—that is, beneficiaries must be independent of licensees.
21. Finally, should I.T. Productions Ltd. again breach its regulatory requirements, the Commission may consider recourse to additional measures, including the imposition of a mandatory order or the suspension, non-renewal or revocation of the broadcasting licence for the station under sections 9 and 24 of the *Broadcasting Act*.

22. 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.

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
- *CJRX Vancouver – Licence renewal*, Broadcasting Decision CRTC 2013-164, 28 March 2013
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011

This decision is to be appended to the licence.

Appendix 1 to Broadcasting Decision CRTC 2017-454

Terms, conditions of licence, expectation and encouragement for the commercial ethnic AM radio programming undertaking CJRJ Vancouver

Terms

The licence will expire 31 August 2020.

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 well as to the conditions set out in the broadcasting licence for the undertaking.
2. In each broadcast week, the licensee shall direct programming to at least 11 cultural groups in at least 17 different languages.
3. In each broadcast week, the licensee shall devote all of its programming to ethnic programs, and at least 95% of its programming to third-language programs, as defined in the *Radio Regulations, 1986*.
4. The licensee shall ensure that at least 73% of the ethnic programs broadcast in each broadcast week are in the Hindustani and Punjabi languages.
5. The licensee shall not devote any of the programming it broadcasts to programming in a Chinese language.
6. The licensee is exempt from the provisions of section 15 of the *Radio Regulations, 1986*.
7. The licensee shall file its financial statements for the 2015-2016 broadcast year by 31 January 2018.
8. Pursuant to this decision and in order to fulfill its outstanding commitments to Canadian content development (CCD) set out in *CJRJ Vancouver – Licence renewal*, Broadcasting Decision CRTC 2013-164, 28 March 2013, the licensee shall:
 - devote at least \$67,379 to CCD in the remainder of the 2017-2018 broadcast year and in each of the 2018-2019 and 2019-2020 broadcast years;
 - devote an additional \$35,000 to CCD for the remainder of the 2017-2018 broadcast year and in the 2018-2019 broadcast year; and
 - file acceptable proof of payment of these CCD contributions by 30 November of each year.

The licensee shall allocate no less than 20% of these amounts in each broadcast year to FACTOR or MUSICACTION. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

9. Regarding the licensee's non-compliance with the *Radio Regulations, 1986* and its conditions of licence, as set out in the present decision:
 - a) For five consecutive days within the 14-day period immediately following 1 January 2018, the beginning of the new licence term, the licensee shall broadcast the following announcement three times a day, distributed in a reasonable manner between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m.:
 - Radio frequencies are a limited public resource. Holding a broadcasting licence is a privilege, and broadcasters are required to abide by a number of regulations and conditions of licence in order to operate a radio station. In *CJRJ Vancouver – Licence renewal*, Broadcasting Decision CRTC 2017-454, 19 December 2017, the CRTC determined that this station is in non-compliance with the *Radio Regulations, 1986* and its conditions of licence. The instances of non-compliance occurred during the 2013-2014 to 2016-2017 broadcast years and are a recurring issue. CJRJ has put measures in place to ensure that the non-compliance in question does not recur.
 - b) The licensee shall provide the Commission with the audio recordings for the broadcast days during which the announcement was broadcast and file a completed and signed *Attestation as to the broadcast of the non-compliance announcement on CJRJ Vancouver*, set out in Appendix 2 to *CJRJ Vancouver – Licence renewal*, Broadcasting Decision CRTC 2017-454, 19 December 2017, by no later than 14 days following the final broadcast of the announcement.

Expectation

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

Encouragement

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.

Appendix 2 to Broadcasting Decision CRTC 2017-454

Attestation as to the broadcast of the non-compliance announcement on CJRJ Vancouver

As regards the requirements set out in condition of licence 9 in Appendix 1 to *CJRJ Vancouver – Licence renewal*, Broadcasting Decision CRTC 2017-454, 19 December 2017, I, _____ (NAME), on behalf of _____ (LICENSEE), certify that the announcement regarding CJRJ Vancouver’s non-compliance with the *Radio Regulations, 1986* and its conditions of licence was duly broadcast three times a day and distributed in a reasonable manner between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m. for five consecutive days within the 14-day period immediately following 1 January 2018, the beginning of the new licence term, as follows:

First date of broadcast:		Times	1:	2:	3:
Second date of broadcast:		Times	1:	2:	3:
Third date of broadcast:		Times	1:	2:	3:
Fourth date of broadcast:		Times	1:	2:	3:
Fifth date of broadcast:		Times	1:	2:	3:

Signature

Date