



Broadcasting Decision CRTC 2018-249

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Reference: Part 1 licence renewal application posted on 23 February 2018

Ottawa, 19 July 2018

B.C.I.T. Radio Society
Burnaby, British Columbia

Public record for this application: 2017-0555-0

CFML-FM Burnaby – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language campus radio station CFML-FM Burnaby, British Columbia, from 1 September 2018 to 31 August 2023. This short-term licence renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.*

Application

1. B.C.I.T. Radio Society filed an application to renew the broadcasting licence for the English-language campus radio station CFML-FM Burnaby, British Columbia, which expires 31 August 2018. The Commission received an intervention supporting this application from the National Campus and Community Radio Association.

Background

2. In Broadcasting Decision 2013-454, the Commission renewed CFML-FM's licence on a short-term basis. The short-term licence was due to the licensee's non-compliance with respect to the filing of annual returns for the 2005-2006, 2006-2007, 2007-2008, 2008-2009 and 2009-2010 broadcast years.

Non-compliance

Annual returns

3. Section 9(2) of the *Radio Regulations, 1986* (the Regulations) requires licensees to file their annual returns, including financial statements, by 30 November of a given year for the broadcast year ending the previous 31 August. The specific filing requirements are set out in Broadcasting Information Bulletin 2011-795.
4. According to Commission records, the licensee submitted annual returns for the 2013-2014, 2014-2015 and 2015-2016 broadcast years in which no revenues or expenses were reported.
5. The filing of complete and timely annual returns, including financial statements, is a basic and fundamental regulatory obligation. Compliance with this requirement not

only allows the Commission to effectively monitor licensees' performance and compliance with various regulations and obligations, but also enables it to effectively assess, supervise, and regulate the radio broadcasting industry as a whole. Accordingly, the late or incomplete filing of annual returns and financial statements is considered to be a serious matter.

6. The licensee submitted that CFML-FM had no direct expenses to report since all overhead expenses are covered by the British Columbia Institute of Technology's (B.C.I.T.'s) Radio Arts & Entertainment and Broadcast & Online Journalism Programs in the B.C.I.T. Broadcast and Media Communications Department. As a result, the licensee argued that it did not receive any income or incur any expenses during the broadcast years in question. The licensee added that any revenues gained or expenses incurred in the future would be reported in its annual returns filed with the Commission.
7. The Commission considers that there are obvious expenses incurred in operating a licensed radio station. Failure to report these expenses in a financial statement is not in accordance with Canadian accounting standards. Coverage of expenses by B.C.I.T. does not exempt the licensee from reporting these expenses and the income used to cover them. Without this information, the Commission is unable to effectively monitor the station's performance.
8. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations for the 2013-2014, 2014-2015 and 2015-2016 broadcast years.

Implementation of a public alerting system

9. Section 16(3) of the Regulations requires all licensees of campus, community and Indigenous stations to implement a public alerting system by 31 March 2016.
10. The licensee confirmed that the National Public Alerting System (NPAS) was implemented on CFML-FM on 14 December 2016, eight months and two weeks after the 31 March 2016 deadline. The licensee did not provide any explanation relating to the circumstances that led to this late implementation.
11. In light of the above, the Commission finds the licensee in non-compliance with section 16(3) of the Regulations.

Regulatory measures

12. 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.

13. In this case, the licensee has acknowledged the non-compliance. However, the Commission is concerned that the licensee has not demonstrated an understanding of its regulatory obligations with respect to the filing of complete annual returns and, specifically, financial statements, and has not taken appropriate corrective action to ensure compliance with this obligation. As a result, the Commission is not convinced that the licensee will be able to operate its station in compliance with its regulatory obligations in the next licence term. Further, this is the second consecutive licence term in which the licensee has been in non-compliance with respect to the submission of annual returns.
14. Accordingly, in light of the severity and recurring nature of the non-compliance, the Commission considers it appropriate to grant the station a short-term renewal of five years. This short-term licence renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.

Conclusion

15. In light of all the above, the Commission **renews** the broadcasting licence for the English-language campus radio programming undertaking CFML-FM Burnaby from 1 September 2018 to 31 August 2023. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminders

16. Licensees are responsible for filing complete annual returns on time, including financial statements. 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.
17. The full participation of the broadcasting industry is important for the NPAS to be effective in safeguarding and warning Canadians. As such, the Commission considers that timely compliance must be enforced, and station compliance will be closely monitored. The Commission could choose to apply other regulatory measures, such as those set out in Broadcasting Information Bulletin 2014-608, should the requirements with respect to the NPAS not be fulfilled.
18. Should the licensee continue to be in non-compliance with regulatory requirements, the Commission may consider recourse to additional measures as part of the next licence renewal process, including the issuance of a mandatory order or the revocation or non-renewal of the licence.
19. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect should the broadcasting certificate issued by the Department of Industry lapse.

Secretary General

Related documents

- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Campus and community radio programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-454, 29 August 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 to Broadcasting Decision CRTC 2018-249

Terms, conditions of licence, expectations and encouragement for the English-language campus radio programming undertaking CFML-FM Burnaby, British Columbia

Terms

The licence will expire 31 August 2023.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Standard conditions of licence for campus and community radio stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012, as well as the conditions set out in the licence for the undertaking.

Expectations

Ownership information

As set out in *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010, the Commission expects all community and campus licensees to file yearly updates on the composition of their board of directors. These annual updates can be submitted at the time of submission of annual returns, following annual board of directors' elections or at any other time. As noted in Appendix 3 to that regulatory policy, licensees may submit such information through the Commission's website.

Cultural diversity

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

Encouragement

Employment equity

The Commission considers that community and campus radio stations should be particularly sensitive to employment equity issues in order to fully reflect the communities they serve. The Commission encourages the licensee to consider these issues in its hiring practices and in all other aspects of its management of human resources.