



## Broadcasting Decision CRTC 2018-304

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

Ottawa, 22 August 2018

### **Blackgold Broadcasting Inc.**

Leduc, Alberta

*Public record for this application: 2017-0950-3*

### **CJLD-FM Leduc – Licence renewal**

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CJLD-FM Leduc from 1 September 2018 to 31 August 2025.*

#### **Application**

1. Blackgold Broadcasting Inc. (Blackgold) filed an application to renew the broadcasting licence for the English-language commercial radio station CJLD-FM Leduc, Alberta, which expires 31 August 2018. The Commission did not receive any interventions in regard to this application.

#### **Non-compliance**

2. For the current licence term, as set out in the appendix to Broadcasting Decision 2012-110, the licensee has been required by condition of licence to contribute \$5,000 in each broadcast year to Canadian content development (CCD) for a total of \$35,000 over seven consecutive broadcast years, over and above any basic annual CCD contributions required under section 15 of the *Radio Regulations, 1986* (the Regulations).
3. According to Commission records, the licensee incurred various apparent shortfalls for the 2012-2013 through 2016-2017 broadcast years in regard to the station's CCD condition of licence, totaling \$23,000, due to a lack of sufficient proof of payment and of eligibility to support some of its reported expenditures. Further, for the 2014-2015 and 2015-2016 broadcast years, the licensee incurred apparent shortfalls totaling \$3,375 in regard to the CCD requirements set out in section 15 of the Regulations (relating specifically to basic CCD contributions; contributions to FACTOR and the Community Radio Fund of Canada; and to filing insufficient proof of payment, i.e., providing a copy of a cheque that was sent to a recipient rather than a copy of a cancelled cheque or receipt).
4. Further, for the 2015-2016 broadcast year, the licensee made a CCD overpayment of \$2,053. In this regard, as set out in Broadcasting Information Bulletin 2009-251,

over-and-above CCD contributions must be paid on an annual basis and cannot be deferred unless prior authorization has been obtained.

5. In regard to the apparent CCD shortfalls, Blackgold stated that it had paid all of the basic and over-and-above CCD contributions as required by condition of licence and the Regulations. In response to a Commission inquiry, the licensee filed additional documentation to support the payment and eligibility of its expenditures.
6. Upon examination of all of the documentation provided by the licensee, the Commission finds that there were no shortfalls for the 2012-2013, 2015-2016 and 2016-2017 broadcast years and that, for those broadcast years, the licensee is in compliance with its CCD contribution requirements. However, there remains a shortfall of \$3,242 relating to payments to FACTOR for the 2013-2014 broadcast year and to basic CCD contributions for the 2014-2015 broadcast year.
7. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence relating to CCD contributions, set out in Appendix 3 to Broadcasting Decision 2012-110, for the 2013-2014 broadcast year, and with section 15 of the Regulations for the 2014-2015 broadcast year.

### **Regulatory measures**

8. 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.
9. The current licence term is the first licence term for CJLD-FM, and this is the first instance of non-compliance by the licensee. Blackgold expressed confidence that, going forward, it will be able to respect filing deadlines and remain in compliance with its regulatory obligations. In the Commission's view, the licensee has accepted responsibility in regard to the various issues of non-compliance related to the filing of annual returns, which includes the filing of sufficient proof of payment and of the eligibility of its claimed CCD contributions. Further, the licensee has taken steps to rectify the non-compliance, including hiring a full-time book keeper/administrative assistant to keep track of its CCD contributions and ensure that documentation is filed on time to keep the licensee in full compliance with its regulatory obligations. Consequently, the Commission considers it appropriate in the present case to grant the licensee a full-term licence renewal for CJLD-FM.
10. In regard to the above-noted overpayment, given that the licensee did not request authorization to defer any over-and-above CCD contributions, the Commission would normally not apply the overpayment to the CCD shortfall. However, in light of Blackgold's explanation of the circumstances leading to the non-compliance, and that the licensee has been cooperative, has taken immediate action to correct the

non-compliance issues, and has implemented measures to ensure future compliance, the Commission considers it appropriate in this case to apply the overpayment to the incurred shortfall, leaving an outstanding shortfall of \$1,189.

11. The Commission therefore requires the licensee to make up the outstanding CCD shortfall of \$1,189 by 30 August 2019, and to provide sufficient proof of payment and eligibility by no later than 30 November 2019, to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of Broadcasting Public Notice 2006-158. A **condition of licence** to that effect is set out in the appendix to this decision.

## Conclusion

12. In light of the above, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CJLD-FM Leduc from 1 September 2018 to 31 August 2025. The terms and **conditions of licence** are set out in the appendix to this decision.

## Reminders

13. 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.
14. It is incumbent upon licensees to provide, by the required deadlines, proof of payment to such initiatives. Licensees 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.
15. 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
- *English-language FM radio station in Leduc*, Broadcasting Decision CRTC 2012-110, 22 February 2012

- *Clarifications regarding Canadian content development contributions made by commercial radio stations*, Broadcasting Information Bulletin CRTC 2009-251, 5 May 2009
- *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 2018-304

### Terms, conditions of licence, expectation and encouragement for the English-language commercial radio programming undertaking CJLD-FM Leduc, Alberta

#### Terms

The licence will take effect 1 September 2018 and expire 31 August 2025.

#### Conditions of licence

1. The licensee shall adhere to the conditions of licence 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 licence for the undertaking.
2. The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations) in any broadcast week:
  - a. devote, in that broadcast week, a minimum of 40% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety; and
  - b. devote, between 6:00 a.m. and 6:00 p.m., in the period from Monday to Friday of the same broadcast week, a minimum of 40% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as those set out in the Regulations.

3. In order to fulfill its outstanding commitments to Canadian content development (CCD) set out in *English-language FM radio station in Leduc*, Broadcasting Decision CRTC 2012-110, 22 February 2012, the licensee shall, in addition to the basic annual contributions to CCD set out in section 15 of the *Radio Regulations, 1986*, make over-and-above CCD contributions totaling \$5,000 in the 2018-2019 broadcast year.

The licensee shall allocate no less than 20% of this amount 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.

4. In order to make up the shortfall in Canadian content contributions (CCD) identified in this decision, the licensee shall contribute \$1,189 to CCD by no later than 30 August 2019 and provide proof of payment and eligibility to the Commission by no later than 30 November 2019. This amount 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.

## **Expectations**

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

The Commission expects the licensee to adhere to its commitment to not direct marketing activities to the City of Edmonton.

## **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.