



Broadcasting Decision CRTC 2020-18 and Broadcasting Orders CRTC 2020-19 and 2020-20

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Ottawa, 24 January 2020

Hope FM Ministries Limited

Truro, Nova Scotia

Public record for this application: 2018-0858-6

Public hearing in the National Capital Region

11 July 2019

CINU-FM Truro – Licence renewal and issuance of mandatory orders

*The Commission **renews** the broadcasting licence for the specialty (Christian music) radio station CINU-FM Truro, Nova Scotia, from 1 March 2020 to 31 August 2021. This short-term renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.*

In addition, the Commission issues mandatory orders requiring the licensee to ensure that CINU-FM complies at all times with sections 8(1), 8(2), 8(4) and 9(3)(b) of the Radio Regulations, 1986, as well as with its condition of licence relating to the broadcast of Canadian selections drawn from content category 3 (Special Interest Music).

Application

1. Hope FM Ministries Limited (Hope FM) filed an application to renew the broadcasting licence for the specialty (Christian music) radio station CINU-FM Truro, Nova Scotia, which expires 29 February 2020.¹ The Commission did not receive any interventions regarding this application.

Background

2. The Commission originally granted approval for the operation of this station in Broadcasting Decision 2003-179. Subsequently, due to non-compliance by the licensee, the Commission granted CINU-FM three short-term licence renewals in

¹ The broadcasting licence for CINU-FM was administratively renewed from 1 September to 31 December 2019 in Broadcasting Decision 2019-221 and from 1 January to 29 February 2020 in Broadcasting Decision 2019-426.

order to allow for earlier reviews of the licensee's compliance with regulatory requirements.

3. In Broadcasting Decision 2010-434, the Commission renewed the station's broadcasting licence from 1 July 2010 to 31 August 2013 in light of the licensee's non-compliance with requirements relating to the filing of annual returns and contributions to Canadian talent development.²
4. In Broadcasting Decision 2013-746, the Commission renewed the station's broadcasting licence from 1 January 2014 to 31 August 2016 in light of the licensee's non-compliance with requirements relating to the submission of radio monitoring materials and the broadcast of Canadian musical selections from content category 3 (Special Interest Music).
5. In Broadcasting Decision 2016-241, the Commission renewed the station's broadcasting licence from 1 September 2016 to 31 August 2019³ in light of the licensee's non-compliance with requirements relating to the filing of radio monitoring materials and the broadcast of Canadian musical selections from content category 2 (Popular Music). The Commission also imposed a condition of licence relating to the broadcast of on-air announcements addressing the station's non-compliance.

Non-Compliance

6. In Broadcasting Notice of Consultation 2019-127, the Commission stated that Hope FM was in apparent non-compliance with the following sections of the *Radio Regulations, 1986* (the Regulations) as well as with one of its conditions of licence in the current licence term:
 - sections 8(1), 8(2), 8(4) and 9(3)(b) of the Regulations relating to the filing of complete and accurate program logs and music lists; and
 - condition of licence 4 set out in the appendix to Broadcasting Decision 2016-241, which requires that at least 20% of all content category 3 musical selections broadcast each broadcast week be Canadian selections.
7. In addition, the Commission noted that if it were to find the licensee in non-compliance in the current licence term, this would be the fourth consecutive licence term in which the licensee will have been found in non-compliance with regulatory requirements. As well, the station would be found to have been in non-

² Canadian talent development is now known as Canadian content development.

³ The broadcasting licence for CINU-FM was also administratively renewed from 1 September to 31 December 2013 in Broadcasting Decision 2013-418, from 1 June to 30 June 2010 in Broadcasting Decision 2010-324, from 1 January to 31 May 2010 in Broadcasting Decision 2009-785, and from 1 September to 31 December 2009 in Broadcasting Decision 2009-506 in order to permit it to operate on a continuous basis since its initial launch.

compliance in every licence term since the beginning of its operations. Consequently, the Commission expressed its concerns regarding the licensee's ability and commitment to operate the station in a compliant manner.

Radio monitoring materials

8. Sections 8(1) through 8(6) of the Regulations set out requirements relating to keeping, retaining and furnishing complete and accurate audio recordings and program logs to the Commission. Section 9(3)(b) of the Regulations sets out the details pertaining to individual musical selections that licensees must provide when filing music lists for any period specified by the Commission.
9. In response to a Commission request for CINU-FM's radio monitoring materials, the licensee provided cue sheets and a list of syndicated programs that were broadcast during the monitored week instead of the required program log. The materials provided by the licensee do not, in themselves, constitute a program log; rather, they provide information that is complementary to what must be included in a program log.
10. Further, Commission staff identified 69 musical selections that were broadcast but were not listed in the submitted materials. Moreover, although Hope FM indicated that CINU-FM broadcasts exclusively musical selections drawn from content category 3, it did not identify individual selections in its music list as required by the Regulations.
11. The licensee indicated that, to avoid future instances of non-compliance, it has implemented new scheduling software that will clearly identify the musical selections it broadcasts.
12. In light of the above, the Commission finds the licensee in non-compliance with sections 8(1), 8(2), 8(4) and 9(3)(b) of the Regulations.

Broadcast of Canadian content category 3 musical selections

13. Pursuant to condition of licence 4 set out in Appendix 1 to Broadcasting Decision 2016-241, Hope FM must ensure that at least 20% of all content category 3 musical selections broadcast each broadcast week on CINU-FM are Canadian selections.
14. By reconciling the music list and syndicated program cue sheets provided by the licensee, Commission staff identified eight musical selections that were identified by the licensee as Canadian but did not meet the requirements to qualify as Canadian musical selections.⁴ Hope FM agreed that three of these musical selections were not Canadian but reiterated that the remaining five selections were Canadian. The

⁴ A musical selection must meet the criteria set out in section 2.2(2) of the Regulations to qualify as a Canadian musical selection.

licensee did not provide sufficient evidence for the Commission to substantiate its claim. Moreover, although the licensee submitted that it would have met the 20% threshold if all eight selections had been deemed to be Canadian, the Commission finds that the station would have needed to broadcast an additional 16 such Canadian musical selections to meet the requirement.

15. In addition, Commission staff identified 69 musical selections that were broadcast by CINU-FM but were not listed in the submitted radio monitoring materials. These musical selections were included in revised calculations of the Canadian musical selections broadcast by CINU-FM during the monitored broadcast week. Consequently, the Commission finds that the Canadian content category 3 musical selections broadcast by CINU-FM constituted only 14.93% of all content category 3 selections broadcast by that station, a shortfall of 5.07%.
16. In order to avoid future instances of non-compliance, the licensee proposed to increase the overall number of Canadian musical selections broadcast by CINU-FM.
17. In light of the above, the Commission finds the licensee in non-compliance with CINU-FM's condition of licence relating to the broadcast of Canadian content category 3 musical selections.

Regulatory Measures

18. 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. Possible regulatory measures include a short-term licence renewal, the imposition of conditions of licence or mandatory orders, or the non-renewal or suspension of the licence. In regard to CINU-FM, the Commission stated in Broadcasting Decision 2016-241 that it might consider recourse to additional measures if the licensee should again breach its regulatory requirements.
19. In that same information bulletin, the Commission introduced further measures to address the potential harm that could be caused to the broadcasting system by non-compliance with various regulations and conditions of licence. For serious cases of non-compliance, the Commission considered it appropriate to introduce a measure by which, in certain circumstances, stations in non-compliance would announce that finding on air. In regard to non-compliance with programming or Canadian content development (CCD) requirements in particular, it considered it appropriate to introduce a measure by which, in certain circumstances, radio station licensees in non-compliance would be required to direct all further CCD contributions to funds such as FACTOR, MUSICACTION or the Community Radio Fund of Canada, rather than to discretionary initiatives such as talent contests, or make additional CCD contributions that are over and above those required by the Regulations and by existing conditions of licence.

20. The Commission acknowledges the measures put in place by the licensee to avoid any future non-compliance in regard to the broadcast of Canadian musical selections and its regulatory requirements relating to keeping complete and accurate radio monitoring materials. Nevertheless, this is the fourth consecutive licence term during which the licensee has been in non-compliance with regulatory requirements. Consequently, in light of the serious and repeated nature of the licensee's non-compliance, the Commission finds it appropriate to grant the licensee a short-term licence renewal for CINU-FM until 31 August 2021, which will allow for an earlier review of the licensee's compliance with regulatory requirements. In reply to a Commission letter dated 28 January 2019 in which Commission staff outlined apparent instances of non-compliance and asked Hope FM to comment on possible regulatory measures, the licensee indicated that it would accept a short-term licence renewal.
21. Further, in light of the recurring nature of the non-compliance, the Commission finds it appropriate to require the licensee to broadcast an on-air announcement regarding its non-compliance three times a day for five consecutive days within the 14-day period immediately following the beginning of the new licence term (i.e., 1 March to 14 March 2020). To confirm compliance with this requirement, the licensee must file with the Commission the audio recordings for the broadcast days during which the announcement was broadcast and a completed and signed *Attestation as to the broadcast of the non-compliance announcement on CINU-FM Truro*, which can be found in Appendix 2 to this decision. A **condition of licence** to that effect is set out in Appendix 1 to this decision. Hope FM, in its reply to the above-mentioned Commission letter dated 28 January 2019, indicated that it would broadcast the announcement.
22. The Commission also considers the licensee's non-compliance with its condition of licence 4 relating to the broadcast of Canadian musical selections to be a very serious matter. When a licensee is in non-compliance with requirements relating to music programming, harm to the broadcasting system may be caused. In the present case, the shortfall in the broadcast of Canadian musical selections deprived certain classes of artists of airplay that the licensee was required to provide, as well as royalties for those artists. Furthermore, Canadian music listeners were deprived of the opportunity to listen to Canadian music, which runs counter to the objectives of the *Broadcasting Act* (the Act) regarding safeguarding, enriching and strengthening the cultural fabric of Canada.
23. In the above-mentioned Commission letter dated 28 January 2019, Commission staff asked Hope FM to comment on the possible imposition of a condition of licence requiring the licensee to make an additional CCD contribution of \$241 to FACTOR or MUSICACTION for each of the 2019-2020 and 2020-2021 broadcast years to compensate for the harm caused to the Canadian broadcasting system through its non-compliance. Hope FM, in its reply, indicated that it would agree to make these additional CCD contributions.

24. Based on the seriousness of the non-compliance and the harm caused, the Commission considers it appropriate to require CINU-FM to make an additional CCD contribution of \$241 for each of the 2019-2020 and 2020-2021 broadcast years to address its shortfall regarding the broadcast of Canadian content category 3 musical selections. A **condition of licence** to that effect is set out in Appendix 1 to this decision.
25. Finally, in regard to the licensee's recurring non-compliance in the current and preceding two licence terms with regulatory requirements relating to the filing of complete and accurate radio monitoring materials and its condition of licence relating to the broadcast of Canadian musical selections, the Commission finds it appropriate, pursuant to section 12(2) of the Act, to impose mandatory orders requiring the licensee to comply at all times with the following:
- sections 8(1), 8(2), 8(4) and 9(3)(b) of the Regulations relating to the filing of complete and accurate program logs and music lists; and
 - condition of licence 4 set out in Appendix 1 to this decision, which requires that at least 20% of all category 3 musical selections broadcast each broadcast week be Canadian selections.
26. These mandatory orders are set out in Appendices 3 and 4 to this decision. Pursuant to section 13 of the Act, the mandatory orders will be filed with the Federal Court and be made orders of that court. The licensee was given the opportunity to comment on this possible regulatory measure and, in its response to the above-mentioned Commission letter dated 28 January 2019, agreed to the imposition of these orders.

Conclusion

27. In light of all of the above, the Commission **renews** the broadcasting licence for the specialty (Christian music) radio programming undertaking CINU-FM Truro, Nova Scotia, from 1 March 2020 to 31 August 2021.
28. The licensee shall adhere to the **conditions of licence** set out in Appendix 1 to this decision and abide by the mandatory orders set out in Appendices 3 and 4 to this decision. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory obligations and conditions of licence.

Reminders

29. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. The submission of complete and accurate radio monitoring materials enables the Commission to conduct an analysis of a station's programming to verify compliance with regulatory obligations. The retention of these radio monitoring materials 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, 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.

30. Should the licensee continue to be in non-compliance with its regulatory requirements, the Commission may consider recourse to additional measures as part of the next licence renewal process, including the revocation or non-renewal of the licence.
31. Pursuant to section 22 of the 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

- *CINU-FM Truro – Administrative renewal*, Broadcasting Decision CRTC 2019-426, 19 December 2019
- *Various commercial radio undertakings – Administrative renewals*, Broadcasting Decision CRTC 2019-221, 21 June 2019
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2019-127, 3 May 2019
- *CINU-FM Truro – Licence renewal*, Broadcasting Decision CRTC 2016-241, 27 June 2016
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *CINU-FM Truro – Licence renewal*, Broadcasting Decision CRTC 2013-746, 20 December 2013
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2013-418, 19 August 2013
- *CINU-FM Truro – Licence renewal*, Broadcasting Decision CRTC 2010-434, 30 June 2010
- *Administrative renewals*, Broadcasting Decision CRTC 2010-324, 28 May 2010
- *Administrative renewals*, Broadcasting Decision CRTC 2009-785, 17 December 2009
- *Administrative renewals*, Broadcasting Decision CRTC 2009-506, 20 August 2009
- *Low-power Christian music FM radio station in Truro*, Broadcasting Decision CRTC 2003-179, 11 June 2003

This decision is to be appended to the licence.

Appendix 1 to Broadcasting Decision CRTC 2020-18

Terms, conditions of licence, expectation and encouragement for the specialty (Christian music) radio programming undertaking CINU-FM Truro, Nova Scotia

Terms

The licence will take effect 1 March 2020 and expire 31 August 2021.

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, with the exception of condition of licence 7, as well as with the conditions set out in the broadcasting licence for the undertaking.
2. The station shall be operated within the specialty format as defined in *A Review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995.
3. The licensee shall ensure that at least 92% of all musical selections broadcast during each broadcast week are drawn from content subcategory 35 (Non-classic religious), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
4. The licensee shall ensure that at least 20% of all content category 3 (Special Interest Music) musical selections broadcast each broadcast week are Canadian selections.
5. If the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2a) and IV of that public notice regarding the provision of balance and ethics in religious programming.
6. a) 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., for five consecutive days within the 14-day period immediately following 1 March 2020, the beginning of the new licence term:

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 Broadcasting Decision 2020-18, the CRTC determined that this station is in non-compliance with the *Radio Regulations, 1986* and its conditions of licence. The non-compliance with the filing of radio monitoring materials and with the broadcast of Canadian musical selections is a recurring issue. CINU-FM has put measures in place to ensure that the instances of non-compliance in question do not reoccur.

- b) The licensee shall provide to the Commission 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 CINU-FM Truro*, set out in Appendix 2 to *CINU-FM Truro – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2020-18, 24 January 2020, by no later than 14 days following the final broadcast of the announcement.
7. The licensee shall, by no later than 31 August of each of the 2019-2020 and 2020-2021 broadcast years, make a \$241 contribution to Canadian content development (CCD) that is over and above the CCD contributions currently required pursuant to the *Radio Regulations, 1986* or by condition of licence. The contribution shall be devoted to FACTOR or MUSICACTION. In addition, the licensee shall file, by 30 November of each year and in a form deemed acceptable by the Commission, proof of payment of these additional contributions to CCD.

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 2020-18

Attestation as to the broadcast of the non-compliance announcement on CINU-FM Truro

In regard to the requirements set out in condition of licence 6 in Appendix 1 to *CINU-FM Truro – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2020-18, 24 January 2020, I, _____ (NAME) on behalf of _____ (LICENSEE), certify that the announcement regarding CINU-FM Truro's non-compliance with the *Radio Regulations, 1986* and 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 March 2020, the beginning of the new licence term:

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

Appendix 3 to Broadcasting Decision CRTC 2020-18

Broadcasting Mandatory Order CRTC 2020-19

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders Hope FM Ministries Limited, licensee of CINU-FM Truro, to comply at all times during the term of the licence granted in *CINU-FM Truro – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2020-18, 24 January 2020, with the requirements set out in sections 8(1), 8(2), 8(4) and 9(3)(b) of the *Radio Regulations, 1986*, which read as follows:

- 8 (1) Except otherwise provided under a condition of its licence, a licensee shall
- (a) keep, in a form acceptable to the Commission, a program log or a record of the matter broadcast by the licensee;
 - (b) retain the log or record for a period of four weeks after the date when the matter was broadcast; and
 - (c) cause to be entered in the log or record each day the following information:
 - (i) the date,
 - (ii) the call letters, location and frequency of the licensee's station,
 - (iii) the time at which each station identification announcement is made,
 - (iv) in relation to each program broadcast,
 - (A) the title and a brief description,
 - (B) subject to subsection (2), the number of the relevant content category,
 - (C) the time at which the program begins and ends,
 - (D) the code set out in Schedule 1 indicating the origin of the program and, if applicable, the language, type or group, and
 - (E) if applicable, the code set out in Schedule 1 identifying non-Canadian programming, and
 - (v) in relation to each commercial message, the quarter hour during which it is broadcast, its duration and the number of the relevant content subcategory.
- (2) When a program falls into more than one content category, a licensee shall cause to be entered in its program log or record the numbers of the two principal content categories in descending order of their relative importance in terms of broadcast time.

(4) A licensee shall furnish, to the Commission on request, its program log or record for any day, with a certificate signed by or on behalf of the licensee attesting to the accuracy of its content.

9 (3) At the request of the Commission, a licensee shall submit for any period specified by the Commission in its request

(b) a list of the musical selections in the order in which they are broadcast by the licensee during that period that includes the title and performer of each musical selection and a legend that identifies

(i) any Canadian musical selection,

(ii) any hit,

(iii) any instrumental selection,

(iv) any content category 3 musical selection, and

(v) the language of the musical selection, where the musical selection is not an instrumental selection.

Appendix 4 to Broadcasting Decision CRTC 2020-18

Broadcasting Mandatory Order CRTC 2020-20

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders Hope FM Ministries Limited, licensee of CINU-FM Truro, to comply at all times during the term of the licence granted in *CINU-FM Truro – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2020-18, 24 January 2020, with the requirements of condition of licence 4, which is set out in Appendix 1 to that decision and which reads as follows:

4. The licensee shall ensure that at least 20% of all content category 3 (Special Interest Music) musical selections broadcast each broadcast week are Canadian selections.