



Broadcasting Decision CRTC 2021-216

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Reference: 2021-114 and 2021-114-1

Ottawa, 8 July 2021

Durham Radio Inc. on behalf of 0971197 B.C. Ltd.
Vancouver, British Columbia

Public record for these applications: 2020-0535-5, 2021-0115-3 and 2021-0130-2
Public hearing in the National Capital Region
27 May 2021

CIRH-FM Vancouver – Change in ownership and effective control, licence renewal, and licence amendments

The Commission **approves** the application by Durham Radio Inc. (Durham), on behalf of 0971197 B.C. Ltd. (Roundhouse), for authority to change the ownership and effective control of Roundhouse through the transfer of all the issued and outstanding shares of Roundhouse to Durham. Roundhouse is the licensee of the English-language specialty commercial FM radio station CIRH-FM Vancouver.

However, the Commission **denies** Durham's request for an exception to the requirement to pay tangible benefits. The Commission **directs** Durham to pay tangible benefits totalling to \$42,060 over seven consecutive broadcast years and to submit acceptable proofs of payment.

In addition, the Commission **renews** the broadcasting licence for CIRH-FM from 1 September 2021 to 31 August 2024, conditional on the licensee filing with the Commission, by no later than **31 August 2021**, supporting proof that the ownership transaction with Durham has closed. This short-term renewal will allow for an earlier review of the licensee's compliance with regulatory requirements. Should the ownership transaction approved in the present decision not close by 31 August 2021, the Commission will not renew the broadcasting licence for CIRH-FM. In such case, the licence will expire at midnight on **31 August 2021**.

Finally, the Commission **approves** Durham's requests to:

- replace CIRH-FM's current condition of licence relating to spoken word programming with a condition of licence requiring the licensee to ensure that a minimum of 50% of all musical selections broadcast during each broadcast week is devoted to selections drawn from content category 3 (Special Interest Music);
- amend CIRH-FM's current conditions of licence relating to the broadcast of Canadian musical selections by lowering from 50% to 40% the minimum level of Canadian musical selections drawn from both content categories 2 (Popular Music) and 3 (Special Interest Music) that must be broadcast during each broadcast week;

- amend CIRH-FM’s current condition of licence relating to annual over-and-above Canadian content development (CCD) contributions to require a total contribution of \$1,127,000 to be expended equally over seven broadcast years (\$161,000 per year); and
- add a condition of licence requiring the licensee to make an additional one-time over-and-above CCD contribution of \$200,240 to be expended within 30 days of the station resuming operations. The licensee must inform the Commission in writing once it is prepared to resume operations so that the Commission may monitor the licensee’s payment of this contribution.

This decision supersedes Broadcasting Decision 2019-204, in which the Commission approved an application by Roundhouse for authorization to change its ownership and effective control through the transfer of all its issued and outstanding shares to South Fraser Broadcasting Inc., a corporation wholly owned and controlled by Mr. Sukhvinder Singh Badh.

Background

1. In Broadcasting Decision 2014-412, the Commission approved an application by 0971197 B.C. Ltd. (Roundhouse) for a broadcasting licence to operate a new specialty commercial FM radio station to serve Vancouver, British Columbia. As part of that application, Roundhouse proposed to offer a niche spoken word service targeting adults aged 25 to 54 living in downtown Vancouver.
2. Roundhouse launched CIRH-FM in October 2015 but ceased operations on 6 May 2018 due to significant financial challenges.
3. In Broadcasting Decision 2019-204, the Commission approved an application by Roundhouse for authorization to change its ownership and effective control through the transfer of all its issued and outstanding shares to South Fraser Broadcasting Inc. (South Fraser), a corporation wholly-owned and controlled by Mr. Sukhvinder Singh Badh. The transaction approved in Broadcasting Decision 2019-204 did not close. Later, Roundhouse’s shareholders entered into the purchase agreement with Durham Radio Inc. (Durham).

Applications

4. Roundhouse filed an application (2020-0535-5) to renew the broadcasting licence for CIRH-FM, which expires 31 August 2021.¹
5. Subsequent to that application, Durham, on behalf of Roundhouse, filed an application (2021-0115-3) to change the ownership and effective control of Roundhouse through the transfer of all its issued and outstanding shares to Durham. Durham also requested an exception from the requirement to pay tangible benefits. If the Commission finds that the

¹ The licence for CIRH-FM was administratively renewed from 1 September 2020 to 28 February 2021 in Broadcasting Decision 2020-284 and from 1 March 2021 to 31 August 2021 in Broadcasting Decision 2021-92.

exception should not be granted, Durham submitted that the value of the transaction should not be higher than \$151,000.

6. Following the proposed transaction, Roundhouse would be wholly owned by Durham. Durham is owned by Douglas E. Kirk (82.6%), Mary L. Kirk (10.9%) and other shareholders (6.5%), Durham is controlled by Douglas E Kirk who is a Canadian pursuant to the Direction to the CRTC (*Ineligibility of Non-Canadians*).²
7. Finally, Durham, on behalf of Roundhouse, filed an application (2021-0130-2) to amend certain conditions of licence for CIRH-FM that are set out in Broadcasting Decision 2014-412.
8. More specifically, Durham seeks to:
 - replace the station's condition of licence 3 relating to spoken word programming with a condition of licence requiring that a minimum of 50% of all musical selections broadcast during each broadcast week be devoted to selections drawn from category 3 (Special Interest Music), which would allow the station to move from a spoken word format to a rhythmic soft contemporary jazz format;
 - amend conditions of licence 4 and 5 by lowering the minimum level of Canadian musical selections in both category 2 (Popular Music) and category 3 (Special Interest Music) broadcast in each broadcast week from 50% to 40%; and
 - amend condition of licence 6 to reschedule payments of over-and-above Canadian content development (CCD) initiatives.

Interventions

9. The Commission received numerous interventions in support of the ownership application and the proposed associated licence amendments, as well as a joint supporting intervention that included supporting letters. Those supporting interventions were filed by supporters of the specialty, rhythmic soft contemporary jazz format that Durham proposed for CIRH-FM.
10. According to the supporting interveners, Durham's proposal for CIRH-FM would fill a void in the Vancouver market and increase the diversity of programming available to listeners. In addition, the proposed station would inform listeners of musical events occurring in Vancouver thereby providing them with an opportunity to hear artists perform.
11. Professionals in the music industry, including artists, stated that acquisition of CIRH-FM by Durham, with the proposed jazz-oriented format, would benefit them for the following reasons:

² SOR/97-192

- exposure to their music would create a larger audience for the genre and promote this type of music;
 - local airplay and interviews would help artists increase their notoriety and expand their fan base, which would help them increase sales of their recordings;
 - local airplay and interviews, along with the promotion of specific events, create a higher demand for live performances, would greatly help musicians with their touring strategies; and
 - cross promotions and musical events would help artists network.
12. South Fraser filed an opposing intervention to which Durham replied. In its intervention, South Fraser argued that Roundhouse did not meet its obligations relating to the transaction that was approved in Broadcasting Decision 2019-204. It submitted that it remains ready and willing to close the transaction.
 13. South Fraser stated that, in April 2021, it had commenced an action in the Supreme Court of British Columbia against Roundhouse. It also filed a request for an injunction preventing Roundhouse or its shareholders from completing the sale with Durham or any other purchaser. South Fraser requested that the Commission not make any decision on Durham's ownership application until the contract dispute has been resolved.
 14. In the alternative, South Fraser submitted that the acquisition by Durham was not in the public interest, arguing that the public interest would be better served if the station were operated by an existing Vancouver market broadcaster that is in a position to achieve operational synergies and leverage existing relationships with sponsors, advertisers and audiences. It argued that, if Durham's application were denied and South Fraser were permitted to complete the transaction approved in Broadcasting Decision 2019-204, South Fraser's position as an independent operator in the Vancouver market would be strengthened. South Fraser also submitted that the motives of Durham's proposed transaction are questionable because it uses a public good, namely the broadcasting licence, for tax savings when the benefits should instead be injected into the broadcasting system.
 15. Finally, South Fraser argued that Durham's business plan is flawed, that all outstanding CCD contributions should be paid upon approval of the transaction, and that no exception to Broadcasting Regulatory Policy 2014-459 (the Tangible Benefits Policy) should be granted to Durham.

Applicant's reply

16. In its reply to the intervention, Durham stated that it was not a party to the previous CRTC process and would not comment on it. However, it stated that it had entered into the share purchase agreement in good faith and that, from its understanding, the transaction between South Fraser and Roundhouse's shareholders was terminated in October 2019 when Mr. Badh failed to close the transaction.

17. Durham added that it had a better track record of regulatory compliance than South Fraser, noting that South Fraser was cited for numerous non-compliance problems in Broadcasting Decision 2021-93. Durham reiterated that its proposal would increase the diversity of programming available to Vancouver listeners. With respect to South Fraser's argument relating to tax savings, Durham submitted that the effect of losses on future taxes can be useful with or without a broadcasting licence.
18. Finally, Durham reiterated that it was proposing to fully pay the outstanding CCD shortfall, and that an exception to the Tangible Benefits Policy was warranted because all the criteria were met in this case.
19. With regard to the injunction, Durham requested to file an additional reply, after the reply deadline, consisting of documents demonstrating that South Fraser's request for an injunction was denied by the Supreme Court of British Columbia. The Commission finds it appropriate in the circumstances to accept this late filing and has added these documents to the record of this proceeding.

Commission's analysis and decisions

20. In the following sections, the Commission addresses each of these applications:
 - application 2021-0115-3 to change the ownership and effective control of Roundhouse;
 - application 2020-0535-5 to renew the licence of CIRH-FM Vancouver; and
 - application 2021-0130-2 to amend certain conditions of licence of CIRH-FM Vancouver

Application 2021-0115-3 to change the ownership and effective control of Roundhouse

21. Pursuant to section 5(1) of the *Broadcasting Act* (the Act), the Commission's mandate is to regulate and supervise all aspects of the Canadian broadcasting system in the public interest. When the Commission assesses whether a transaction is in the public interest, it considers the extent to which the transaction enhances the Canadian broadcasting system and contributes to the achievement of the objectives of the broadcasting policy for Canada, as set out in section 3(1) of the Act.
22. Since the Commission does not solicit competitive applications for changes in effective control of broadcasting undertakings, the onus is on the applicant to demonstrate that the application is in the public interest, that the benefits of the transaction are commensurate with the size and nature of the transaction, and that the application represents the best possible proposal under the circumstances. The Commission must consider each application on its merits, according to the circumstances specific to the application.
23. As noted above, South Fraser has requested that the Commission not proceed with this application until the litigation with Roundhouse has been resolved. The Commission has the authority to review ownership transactions and to approve changes in ownership and effective control of a licensee, and views this as an essential element of its regulatory and

supervisory mandate under the Act. It is this authority that the Commission is being asked to exercise with these applications. The Commission also notes that this litigation could extend over a long period of time and that South Fraser's request for an injunction was denied. The Commission does not consider that there is any current legal impediment to the exercise of its authority with respect to these applications and therefore denies South Fraser's request.

24. The Commission has considered the following issues relating to Durham's application for the change in ownership and control of Roundhouse :
- whether the transaction is in the public interest;
 - the value of the transaction; and
 - tangible benefits.

Public interest

25. To determine whether a proposed transaction is in the public interest, the Commission takes into account a wide set of factors set out in the Act, including the nature of programming and service to the communities involved as well as regional, social, cultural, economic and financial considerations. The Commission must be persuaded that the proposed transaction benefits Canadians and the broadcasting system.
26. Durham submitted that approval of the application would be in the public interest in that it would implement a commercial English-language specialty radio service as contemplated by Broadcasting Decision 2014-412. Durham argued that the station would significantly increase musical and information diversity for listeners in Vancouver by introducing a rhythmic soft contemporary jazz format that offers music not currently available in the market along with over 12 hours of spoken word programming each week. Durham also indicated that the station would provide substantial new support for CCD, particularly for new and emerging Canadian talent, and contribute to increased ownership and editorial diversity in Vancouver by providing a strong and successful smaller independent broadcaster an opportunity to serve the market.

Commission's analysis

27. In the assessment of this application, the Commission has focused on how the transaction would contribute to the achievement of the following objectives set out in section 3(1) of the Act. In particular:

3(1)(d) the Canadian broadcasting system should

- (i) serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada,
- (ii) encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming

and by offering information and analysis concerning Canada and other countries from a Canadian point of view,

(3)(1)(i) the programming provided by the Canadian broadcasting system should

(i) be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes,

28. Since CIRH-FM has been off air since May 2018, the resumption of the station's operations would allow Vancouver residents to benefit from the specialty radio station approved by the Commission in 2014 although with a different format. As the format proposed by Durham is not currently available in the market, approval of the application would, as demonstrated by the interventions in support of the application, add to the diversity of programming available to Vancouver listeners.
29. The Commission is of the view that Durham is well positioned for the challenge of taking over operations, getting CIRH-FM back on-air, and achieving long-term viability for the service. Durham is a small but experienced independent broadcaster that has the financial resources to re-launch the station. The proposed specialty music format would require fewer staff than the current spoken word format. Durham's proposal would therefore result in a significant reduction in programming expenses, which would make the service more viable in the long run. Durham would also be in a position to benefit from synergies with WAVE FM, its Internet radio service that broadcasts in a format similar to that proposed for CIRH-FM, as well as with Durham's radio stations in Ontario.
30. As well, with the resumption of operations of CIRH-FM, the transaction would enhance the diversity of ownership in the Vancouver market and would offer a new independent editorial voice for Vancouver listeners.
31. Finally, approval of the application would serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada and encourage the development of Canadian expression through the provision of a wide range of programming and through the fulfilment of the CCD and tangible benefits initiatives discussed later in this decision. The financing of development initiatives through the Tangible Benefits Policy and CCD payments helps ensure the availability and promotion of high quality Canadian music, and other creative material, for broadcast.
32. In light of the above, the Commission finds that approval of the transfer of ownership and effective control of Roundhouse to Durham would be in the public interest and would meet the objectives set out in section 3(1) of the Act.

Value of the transaction

33. As set out in the Tangible Benefits Policy, the Commission generally requires the payment of tangible benefits as part of a change in the effective control of all broadcasting undertakings. The value of the transaction is used to calculate the amount of tangible benefits to be paid. To calculate the value of the transaction, the Commission takes into

account the value of the transaction as a whole, including the value of gross debt assumed, working capital to be transferred at closing, ancillary agreements and any leases assumed by the purchaser for real property (i.e., buildings, studios and offices) and transmission facilities.

34. The Commission's purpose in determining the value of the transaction is not to value the undertakings to be acquired or ensure that the purchase price is reasonable, but to arrive at an appropriate amount on which to calculate tangible benefits, taking into account the public interest and the absence of a competitive licensing process. The Commission seeks to ensure predictability and consistency regardless of the structure of the transaction or the financing of the business.

Including the price paid for the shareholders loan

35. Pursuant to the purchase agreement dated 18 February 2021, the purchase price has two components. The first component is \$1,000 payable by Durham for all the issued and outstanding shares of Roundhouse. The second component is an amount payable by Douglas E. Kirk for a loan valued at \$9,710,000 (the shareholders loan) that was advanced by the current shareholders to launch the station and sustain its operations. The amount paid for the shareholders loan would be either \$700,000 (if the applications are approved on terms and conditions acceptable to the purchaser) or \$550,000 (if the applications are denied or approved on terms and/or conditions that are not acceptable to the purchaser).
36. If the Commission does not grant the requested exception from the requirement to pay tangible benefits, Durham submitted that the value of the transaction should not be higher than \$151,000. This amount would include \$1,000 for the purchased shares plus \$150,000, which represents the difference between the price paid for the shareholders loan if the company is acquired with a broadcasting licence (\$700,000) and the price paid for the shareholders loan if Roundhouse is not acquired with a broadcasting licence (\$550,000).
37. The Commission considers that the purchase price for the shareholders loan cannot be separated from the acquisition of Roundhouse shares by Durham. In this regard, the two components of the payment – the purchase of the shares and acquisition of the shareholders loan – are not severable and the purchase price for the shareholders loan must be included in the value of the transaction in order to fully reflect the cost of acquisition.
38. The Commission notes that to purchase the station and acquire the licence, Durham must pay \$700,000 to the current shareholders. In the Commission's view, the fact that some assets would have a value without a broadcasting licence cannot be used as an argument to reduce the value of the transaction. Moreover, accepting Durham's position would lead to the restructuring of transactions in such a way as to reduce the amount of tangible benefits. The Commission therefore finds that the amount of \$700,000 should be included in the value of the transaction.

Including assumed debt

39. The Tangible Benefits Policy also states that the value of the transaction includes the gross value of assumed debt. Normally, this would include the value of the shareholders loan. In

this case, the total value of the shareholders loan (\$9,710,000) would remain a liability for Roundhouse, although it would be owed to Mr. Kirk, the majority shareholder of Durham, and not to the previous shareholders.

40. The Commission seeks, through the Tangible Benefits Policy, to ensure predictability and consistency regardless of the structure of the transaction. The value of the transaction that was determined in Broadcasting Decision 2019-204 for the proposed sale of Roundhouse to South Fraser was \$900,000, including \$600,000 as the purchase price. The Commission is of the view that it would not be reasonable to increase the value of the transaction from \$900,000 to \$10.4 million primarily because of the structure of the transaction.
41. In addition, the Commission notes that the inclusion of this assumed debt in the value of the transaction would require the payment of a tangible benefits package of roughly \$625,000 (6% of \$10.4 million). Considering the limited revenues projected for the station, an annual payment of approximately \$90,000 per year in tangible benefits in addition to the proposed \$161,000 annual payment in CCD contributions would constitute a substantial financial burden and the service would probably remain off-air. Under this scenario, all the benefits associated with the transaction would be lost, which would not be in the public interest.
42. In light of the above, the Commission is of the view that, in this case, the broadcasting system would be better served without adding the value of the assumed debt to the value of the transaction. Accordingly, the Commission determines that the value of the transaction is \$701,000, as per the calculation in the table below:

Item	Amount
Purchase price	\$1,000
Addition: Shareholders loan	\$700,000
Value of the transaction	\$701,000

Tangible benefits

43. As set out in the Tangible Benefits Policy, commercial enterprises typically purchase commercial undertakings because they anticipate that such acquisitions will ultimately serve their financial interests. In their estimation, despite the possible risks, the long-term benefit, whether strategic or purely financial, will outweigh those risks.
44. In the absence of a competitive licensing process for transfers of ownership or control of broadcasting undertakings, the Commission generally requires purchasers to make significant and unequivocal financial contributions to the broadcasting system as a whole and to the communities served by the services in question. These contributions, known as tangible benefits, are defined as direct financial contributions that are made to CCD and represent at least 6% of the value of a transaction for radio services.

45. The Tangible Benefits Policy provides for an exception to the payments of tangible benefits in certain circumstances. In such cases, the onus is on the applicant to demonstrate that the exception is in the public interest. The Tangible Benefits Policy sets out the following three criteria that should be met for an exception to be granted:
 - i. the undertaking to be acquired is not in its first licence term (many undertakings take up to one full term from the time of licensing to achieve profitability);
 - ii. the undertaking has suffered significant financial losses over an extended period of time (that is, for at least five consecutive years following the first licence term); and
 - iii. the purchaser demonstrates that there is a public interest either for the broadcasting system as a whole or the community served in maintaining the failing undertaking.
46. The Tangible Benefits Policy also states that, even where the three criteria are met, the Commission may nevertheless exercise its discretion and decline to grant an exception.
47. Durham requested an exception from the payment of tangible benefits arguing that it meets all the three criteria set out above. It submitted that CIRH-FM is in its first licence term and that the station has been unprofitable for an extended period of time, with significant financial losses of almost \$10 million in just under three years of operation. Durham further submitted that the transaction would benefit the public by implementing a specialty radio service, increasing musical diversity in the market, providing substantial support to CCD, and allowing a successful smaller independent radio broadcaster an opportunity to serve the Vancouver market. It further argued that an exception would be in the spirit of the Tangible Benefits Policy, which is to recognize that when stations are unprofitable, the public interest is served by allowing them to be maintained, and permitting a new operator to maximize its investment in improving them, for example in local news, rather than supporting third parties.
48. With respect to the first criterion, CIRH-FM was licensed in 2014 with its licence expiring 31 August 2020. The licence was subsequently administratively renewed twice, most recently until 31 August 2021 to allow the licensee to find a purchaser. The Commission therefore considers that the applicant has met the first criterion for exception since CIRH-FM is not in its first licence term.
49. With respect to the second criterion, although CIRH-FM has suffered significant financial losses, those losses were incurred during the station's first licence term, not for at least five consecutive years following the first licence term as provided by the Tangible Benefits Policy. While Durham argued that CIRH-FM was unprofitable for an extended period of time, the Commission notes that the station was on air for fewer than three years. Financial losses within the first licence term are to be expected when launching a service. The Commission therefore finds that Durham has not met the second criterion for exception.
50. With respect to the third criterion, the Commission recognizes that there would be significant benefits to the Canadian broadcasting system if the service were revived

However, the Commission must balance the needs of other stakeholders in the broadcasting system and ensure that the benefits are commensurate with the size and nature of the transaction. As such, it must also ensure that eligible third-party CCD recipients receiving tangible benefits can also continue to contribute to the broadcasting system. The Commission further notes that Durham would be acquiring a station that operates in a large market without having to go through a competitive process. As well, given the Commission's decision to set the value of the transaction at \$701,000, the tangible benefits would total \$42,060 (6% of the value of the transaction) and would be expended over the course of seven consecutive broadcast years (a contribution of \$6,009 annually). The Commission considers that this amount would not be too onerous for the purchaser given the value of CIRH-FM. Accordingly, the Commission finds that Durham has not met the third criterion for exception.

51. In light of the above, the Commission **denies** Durham's request for an exception to the payment of tangible benefits as set out in the Tangible Benefits Policy.
52. Pursuant to the Tangible Benefits Policy, tangible benefits representing at least 6% of the value of the transaction as determined by the Commission must be allocated to the Radio Starmaker Fund or Fonds Radiostar (3%), FACTOR or Musicaction (1.5%), eligible CCD initiatives at the discretion of the purchaser (1%) and the Community Radio Fund of Canada (CRFC) (0.5%). The Commission's general practice is to allocate payments equally over seven consecutive broadcast years.
53. Accordingly, the Commission **directs** Durham to pay \$42,060 in tangible benefits, representing 6% of the adjusted value of the transaction, to be paid in equal payments over seven consecutive broadcast years, and to submit adequate proof of payment. The payments must be allocated as follows:
 - 3% (\$21,030) to Radio Starmaker Fund;
 - 1.5% (\$10,515) to FACTOR;
 - 1% (\$7,010) to any eligible CCD initiative at the discretion of the purchaser; and
 - 0.5% (\$3,505) to the CRFC.

Application 2020-0535-5 to renew the licence of CIRH-FM Vancouver

Non-compliance

54. In Broadcasting Notice of Consultation 2021-114, the Commission stated that the licensee is in apparent non-compliance with the following:
 - section 9(2) of the *Radio Regulations, 1986* (the Regulations) relating to the provision of annual returns; and
 - condition of licence 6 relating to over-and-above CCD contributions set out in Appendix 2 to Broadcasting Decision 2014-412.

55. In addition, the Commission stated that, given the instances of apparent non-compliance noted above and the station's continued off-air status without any planned resumption of service, it may consider the possibility of suspending or not renewing the licence of CIRH-FM pursuant to sections 9 and 24 of the Act.

Filing of annual returns

56. Section 10(1)(i) of the Act authorizes the Commission to make regulations in furtherance of its objects requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.
57. Pursuant to this authority, the Commission set out section 9(2) of the Regulations, which 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.
58. As noted above, the licensee is in apparent non-compliance with section 9(2) of the Regulations. The instances of apparent non-compliance, which occurred during the 2015-2016 through 2018-2019 broadcast years, are as follows:
- the 2015-2016 annual return and financial statements were filed late and Form 1411 (National Public Alerting System) was not filed;
 - the 2016-2017 annual return and financial statements were filed late;
 - the 2017-2018 annual return was incomplete in that it did not include financial statements; and
 - the 2018-2019 annual return was incomplete in that it was missing forms related to CCD, licence fees and financial statements.
59. Compliance with the requirements relating to the filing of complete and accurate annual returns is essential to the Commission. An annual return that is filed late or with incomplete or inaccurate information does not allow for a complete assessment of licensees' compliance with respect to the CCD contributions. Accordingly, the annual filing of the required information enables the Commission not only to assess effectively licensees' performance and compliance with regulations and obligations, but also to evaluate and regulate effectively the broadcasting industry. Annual returns are a key element of the Commission's current monitoring plan and an authoritative source of statistics on the Canadian broadcasting industry for use by all stakeholders. These filings are important indicators of whether the licensee has the willingness, ability and knowledge to achieve and maintain compliance.
60. The licensee has acknowledged the instances of the non-compliance relating to the filing of annual returns. For its part, Durham stated that it had a strong record of compliance and would be able to file complete and accurate annual returns if its application to assume ownership of Roundhouse was approved.

61. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations for the 2015-2016 through 2018-2019 broadcast years.

Canadian content development contributions

62. Sections 3(1)(e) and 3(1)(s)(i) of the Act declare that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming and that private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming. In accordance with this aspect of the broadcasting policy and pursuant to its authority in section 9(1) of the Act, the Commission has imposed conditions of licence requiring programming undertakings to contribute in various ways to the creation of Canadian programming, including imposing CCD contribution requirements.
63. Roundhouse made none of the annual over-and-above CCD contributions required by condition of licence 6 for the 2015-2016 through 2017-2018 broadcast years, representing a CCD contribution shortfall of \$580,345.
64. The licensee has acknowledged the non-compliance. Further, as set out above, Durham has made a commitment to fulfill all outstanding CCD contribution obligations for CIRH-FM according to a revised payment schedule.
65. In light of the above, the Commission finds the licensee in non-compliance with CIRH-FM's conditions of licence relating to CCD contributions for the 2015-2016 through 2017-2018 broadcast years.

Regulatory measures

66. 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.
67. In its response dated 9 March 2021 to a request for information from Commission staff, Durham stated that Roundhouse, under its current owners, is responsible for the non-compliance issues. Further, it proposed a CCD contribution schedule that fully accounts for the original commitment made by Roundhouse.
68. Both Roundhouse and Durham argued that Durham as a new owner should not have to shoulder the consequences of past non-compliance. Roundhouse stated that it did not seem in the best interest of the system to handicap an independent broadcaster with a short-term renewal in a challenging market. Durham stated that the imposition of CCD contributions in addition to those that it has agreed to assume would impair the economic viability of the station and would jeopardize the fulfilment of the original CCD contribution commitment.

Durham also assured the Commission that it has a history of compliance with its current stations and that it intends to operate CIRH-FM in the same fashion.

69. As indicated earlier in this decision, the Commission is of the view that approval of a change of ownership would provide the opportunity for CIRH-FM to resume operations and serve Vancouver residents, something that Roundhouse, under current ownership, is unable to do. The purchaser would also fulfill all of Roundhouse's outstanding CCD contribution obligations, albeit with a revised schedule. The Commission is also satisfied that Durham's experience will serve to ensure that compliance problems relating to annual returns are unlikely to re-occur.
70. Nevertheless, given the nature and severity of the instances of non-compliance, the Commission considers that it would be appropriate to renew the broadcasting licence for CIRH-FM until 31 August 2024. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements.
71. Further, given the instances of non-compliance, the station's off-air status, and the licensee's statements that it does not have the resources to resume broadcasting and does not intend to operate the station in the next licence term under the current ownership structure, the Commission would not renew the licence for CIRH-FM were it not for the purchase of Roundhouse by Durham. Accordingly, this renewal will only be effective if the transaction between Durham and Roundhouse to change the ownership and effective control of CIRH-FM is completed by no later than **31 August 2021**, the current expiry date for the licence, and supporting proof of the close of the transaction is provided to the Commission by that date. Should the ownership transaction not close by that date, the Commission will not renew the broadcasting licence for CIRH-FM. In such case, the licence will expire at midnight on **31 August 2021**.

Application 2021-0130-2 to amend certain conditions of licence of CIRH-FM

72. The Commission has the authority, pursuant to section 9(1) of the Act, to issue licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act, as well as to amend those conditions on application of the licensee.
73. Durham requested the replacement of and amendments to certain conditions of licence for CIRH-FM set out in Appendix 3 to Broadcasting Decision 2014-412. It submitted that approval of those changes would permit CIRH-FM to move from a spoken word format to a specialty, rhythmic soft contemporary jazz format.
74. First, Durham requested to replace the station's condition of licence 3 relating to spoken word programming, which reads:
 3. The licensee shall devote more than 50% of the programming broadcast each broadcast week to programming drawn from category 1 (Spoken Word).

with the following:

3. The licensee shall ensure that a minimum of 50% of all musical selections broadcast during each broadcast week shall be devoted to selections drawn from category 3 (Special Interest Music).

75. Second, Durham requested amendments to CIRH-FM's conditions of licence relating to the broadcast of Canadian musical selections (conditions of licence 4 and 5) in order to lower the minimum level of Canadian musical selections drawn from content categories 2 (Popular Music) and 3 (Special Interest Music) to be broadcast in each broadcast week from the current 50% to 40%. The revised conditions of licence would read as follows:

4. 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*, as amended from time to time, in any broadcast week:

1. 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

2. 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 (Popular Music) to Canadian selections broadcast in their entirety.

5. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(3) of the *Radio Regulations, 1986*, as amended from time to time, devote, in each broadcast week, a minimum of 40% of its musical selections from content category 3 (Special Interest Music) to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.

76. Third, Durham requested an amendment to CIRH-FM's condition of licence relating to annual over-and-above CCD contributions totalling \$1,327,240 over a period of seven consecutive broadcast years (condition of licence 6 set out in Appendix 3 to Broadcasting Decision 2014-412). That condition of licence currently reads as follows:

6. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall, upon commencement of operations, make a total contribution of \$1,327,240 over seven consecutive broadcast years to the promotion and development of Canadian content and allotted each year as follows:

Year 1	\$200,000
Year 2	\$190,845
Year 3	\$189,500
Year 4	\$188,085
Year 5	\$187,240
Year 6	\$186,115
Year 7	\$185,455

The licensee shall allocate the following amounts of its additional annual CCD contribution to FACTOR:

Year 1	\$40,000
Year 2	\$38,169
Year 3	\$37,900
Year 4	\$37,617
Year 5	\$37,448
Year 6	\$37,223
Year 7	\$37,091

The remaining amounts of this additional CCD contribution 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.

77. Under Durham's proposal, Durham would be required to make annual over-and-above CCD payments totaling \$1,127,000 to be expended equally over 7 years (\$161,000 per year) and to make a one-time over-and-above CCD payment of \$200,240 to be expended within 30 days of the date that the station resumes operations. The amended condition of licence 6 for the annual payments and the new condition of licence 7 regarding the one-time payment would read as follows:

6. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall, upon resumption of operations, make a total contribution of \$1,127,000 over seven consecutive broadcast years to the promotion and development of Canadian content to be allotted each year as follows:

Year 1	\$161,000
Year 2	\$161,000
Year 3	\$161,000
Year 4	\$161,000
Year 5	\$161,000
Year 6	\$161,000
Year 7	\$161,000

The licensee shall allocate the following amounts of its additional annual CCD contribution to FACTOR:

Year 1	\$32,200
Year 2	\$32,200
Year 3	\$32,200
Year 4	\$32,200
Year 5	\$32,200
Year 6	\$32,200
Year 7	\$32,200

The remaining amounts of this additional CCD contribution 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.

7. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall make a one-time over-and-above CCD contribution of \$200,240 within 30 days of the station's resumption of operations of which 20% shall be allocated to FACTOR.

The remaining amounts of this additional CCD contribution 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.

78. The Commission notes that approval of the licensee's requests regarding the amended and the new conditions of licence relating to CCD contributions would result in the expenditure of the total amount of Roundhouse's original \$1,327,240 commitment for over-and-above CCD contribution, but under a revised payment schedule.
79. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that it must address the following issues:
- whether the applicant has demonstrated sufficient economic need to justify the proposed amendments;
 - whether the proposed amendments could have an undue negative impact on incumbent radio stations;
 - whether the amendments would undermine the integrity of the Commission's licensing process;
 - whether CIRH-FM is in compliance with its conditions of licence related to CCD; and
 - whether it is appropriate to reduce the levels of Canadian music.

Economic need

80. Durham argued that the amendments are necessary to revive a failed radio station that is no longer operating.
81. The Commission notes that CIRH-FM launched in October 2015 with a spoken word format and has completed its first licence term. During the seven years of that licence term, the station was on the air for only 2.5 years and accumulated substantial losses before ceasing operations. A spoken word format generally incurs high programming expenses since it requires a large staff component. In the Commission's view, Durham's proposed format will allow CIRH-FM to operate with decreased expenses.

82. The Commission further notes that the station would relaunch under unfavourable circumstances in that it would have to compete in a large market with 24 commercial stations, many of which are operated by large vertically integrated players. To compound the difficulties, CIRH-FM's contours are limited to Vancouver's downtown core, making it difficult to compete with stations with a greater coverage.
83. In light of the above, the Commission finds that Durham has demonstrated a compelling economic need for the amendments relating to the programming broadcast on CIRH-FM.

Impact on other stations

84. Durham submitted that approval of the requested licence amendments would not have a material impact on the incumbent stations in the market. It argued that while the industry is running at 25% to 30% below the revenues achieved in 2020, the radio market has weathered the worst of the pandemic and revenues will strengthen in the second half of 2021 with the easing of government imposed restrictions on economic activity.
85. The Commission notes that Durham has projected modest revenues for the station. As well, given the limited coverage of CIRH-FM's signal, the Commission considers that approval of the amendments is unlikely to have an impact on the ownership groups that dominate the Vancouver market, each of which operates at least two stations with significantly larger coverage areas. Further, approval of the amendments is also unlikely to have a major impact on the six ethnic stations operating in the Vancouver market, since they target third-language groups while CIRH-FM is an English-language station.
86. The Commission further notes that the only other non-ethnic, locally independent radio station operating in the market, CISF-FM (operated by South Fraser), is licensed to serve Surrey while CIRH-FM's coverage is limited to the Vancouver downtown core.
87. Finally, the Commission considers that, as the proposed jazz music format is different from the formats provided by incumbent stations, CIRH-FM will not compete directly with them.
88. Accordingly, the Commission finds that approval of the proposed amendments would not have an undue economic impact on incumbent stations in the market.

Integrity of the licensing process

89. CIRH-FM was licensed as a niche specialty radio station with a spoken word format that would provide a unique local service. The proposal relating to over-and-above CCD initiatives was also a factor that led to Roundhouse obtaining the broadcasting licence at the end of a competitive process.
90. Although Durham is seeking to change CIRH-FM's format to one featuring rhythmic soft contemporary jazz, the station would remain within the specialty format, and would provide a service not currently available in the Vancouver market. In addition, a dedicated jazz station would allow for increased discoverability and promotion of Canadian jazz artists and music.

91. The requested licence amendments regarding CIRH-FM's conditions of licence relating to CCD contributions would maintain the total amount to be expended in this regard, although changing the payment schedule. In the Commission's view, the changes would ensure that an initial CCD amount is quickly injected into the Canadian broadcasting system, and that the remaining amount will be contributed as an ongoing annual expenditure.
92. While Durham has requested reduction in the levels of Canadian musical selections drawn from content categories 2 and 3 for broadcast on the station to levels compatible with the new format, the new levels would still be well above the minimum levels required under the Regulations.
93. Finally, the amendments are being requested for the station's second licence term, not the first. A number of years have passed since CIRH-FM was originally licensed and since that time, circumstances have changed. Approval of the requested amendments would assist in the relaunch of a station that would otherwise remain off the air.
94. In light of the above, the Commission considers that approval of the proposed amendments to CIRH-FM's conditions of licence would not undermine the integrity of the Commission's licensing process.

CIRH-FM's non-compliance with its conditions of licence related to CCD

95. The Commission typically expects a licensee to demonstrate compliance with existing conditions of licence when it seeks a licence amendment. The Commission has generally been inclined to deny an amendment if the non-compliance is directly related to the requirement the licensee wishes to amend.
96. Roundhouse did not make any CCD contributions during the 2015-2016 through 2017-2018 broadcast years, the only years during which the station was on-air. The Commission notes, however, that Durham has made a commitment to fulfill the total outstanding CCD contribution commitments for CIRH-FM if its applications are approved.
97. With respect to the conditions of licence relating to the broadcast of spoken word programming and Canadian musical selections, the Commission did not have an opportunity to monitor CIRH-FM during the limited time it was on the air. In addition, the station was off air by the time the current applications were submitted. Accordingly, the Commission cannot make any determinations concerning the station's compliance with its programming requirements.
98. Although the instances of non-compliance in question occurred prior to the change in ownership and effective control of Roundhouse, Durham, through the present ownership transaction, will assume the consequences of that non-compliance. As noted above, the CCD non-compliance would normally be a basis for the Commission to deny the request to amend that condition of licence. However, CIRH-FM is currently facing financial challenges, and the Vancouver market has experienced a steady decline in revenues over a number of years, which will generate additional hurdles for the licensee. In addition, Durham has committed to expend the full original over-and-above CCD commitment made

by Roundhouse during the original licensing process, albeit on a different schedule. For these reasons, the Commission finds that, despite the non-compliance, it would be appropriate to grant the amendment requested in respect of CCD.

Levels of Canadian music

99. Radio stations play an important role in showcasing the work of Canadian artists. They contribute to the fulfilment of the objective set out in section 3(1)(d)(ii) of the Act, which provides that the Canadian broadcasting system should encourage the development of Canadian expression by displaying Canadian talent in entertainment programming.
100. Durham proposed to amend CIRH-FM's conditions of licence relating to the broadcast of Canadian musical selections by lowering from 50% to 40% the minimum level of Canadian musical selections that must be drawn from both content categories 2 and 3 for broadcast on the station. Should these requests be approved, the licensee would still be bound, by condition of licence, to Canadian content levels that are well above the regulatory levels of 35% (content category 2) and 10% (content category 3) set out in the Regulations.
101. The Commission notes that the original commitment to broadcast a minimum 50% level of Canadian musical selections was made in the context of the station's operation with a spoken word format. With a music-based format, the total number of Canadian selections broadcast by the station, even under the lower levels Durham has proposed, would be higher than it was before.
102. The Commission is therefore of the view that the proposed levels of Canadian musical selections for CIRH-FM are appropriate in that the station will program levels of Canadian selections that are above those out in the Regulations and promote and expose the work of Canadian jazz musicians.

Conclusion

103. In light of all of the above, the Commission **approves** the application by Durham Radio Inc., (Durham) on behalf of 0971197 B.C. Ltd. (Roundhouse), for authority to change the ownership and effective control of Roundhouse through the transfer of all the issued and outstanding shares of Roundhouse to Durham.
104. However, the Commission denies Durham's request for an exception from the requirement to pay tangible benefits. The Commission **directs** the applicant to pay tangible benefits amounting to \$42,060 over seven consecutive broadcast years and to submit acceptable proofs of payment.
105. In addition, the Commission **renews** the broadcasting licence for the English-language specialty commercial FM radio programming undertaking CIRH-FM from 1 September 2021 to 31 August 2024. This short-term renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.

106. This licence renewal will only be effective if the change in ownership and control of Roundhouse is completed by no later than **31 August 2021**, the current licence expiry date. Accordingly, the renewal of the broadcasting licence for CIRH-FM is conditional on the licensee filing with the Commission, by no later than **31 August 2021**, supporting proof that the transaction has closed. Should the transaction not close by that date, the Commission will not renew the broadcasting licence for CIRH-FM. In such case, the licence will expire at midnight on **31 August 2021**.
107. Finally, the Commission **approves** Durham's requests to amend the broadcasting licence for CIRH-FM:
- by replacing CIRH-FM's condition of licence relating to spoken word programming with a condition of licence requiring the licensee to ensure that a minimum of 50% of all musical selections broadcast during each broadcast week is devoted to selections drawn from content category 3 (Special Interest Music);
 - by amending CIRH-FM's conditions of licence relating to the broadcast of Canadian musical selections by lowering from 50% to 40% the minimum level of Canadian musical selections drawn from both content categories 2 (Popular Music) and 3 (Special Interest Music) that must be broadcast during each broadcast week;
 - by amending CIRH-FM's condition of licence relating to annual over-and-above CCD contributions to require a total contribution of \$1,127,000 to be expended equally over seven consecutive broadcast years (\$161,000 per year); and
 - by adding a condition of licence requiring the licensee to make an additional one-time over-and-above CCD contribution of \$200,240 to be expended within 30 days of the station resuming operations. The licensee must inform the Commission in writing once it is prepared to resume operations so that the Commission may monitor the licensee's payment of this contribution.
108. This decision supersedes Broadcasting Decision 2019-204, in which the Commission approved an application by Roundhouse for authorization to change its ownership and effective control through the transfer of all its issued and outstanding shares to South Fraser Broadcasting Inc., a corporation wholly owned and controlled by Mr. Sukhvinder Singh Badh.

Reminders

109. The licensee must be in compliance with regulatory requirements at all times. Should the licensee continue to be in non-compliance with regulatory requirements, the Commission may consider recourse to additional measures during the next licence term, including the issuance of a mandatory order or non-renewal of the licence.
110. Pursuant to section 22 of the Act, the broadcasting licence issued 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

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2021-114, 22 March 2021
- *CIRH-FM Vancouver – Administrative renewal*, Broadcasting Decision CRTC 2021-92, 24 February 2021
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-284, 21 August 2020
- *CIRH-FM Vancouver – Change in ownership and effective control and licence amendments*, Broadcasting Decision CRTC 2019-204, 12 June 2019
- *CIRH-FM Vancouver - Technical changes*, Broadcasting Decision CRTC 2015-297, 7 July 2015
- *Update on the Commission’s approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014
- *Licensing of new radio stations to serve Surrey and Vancouver*, Broadcasting Decision CRTC 2014-412, 6 August 2014
- *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 2021-216

Terms, conditions of licence, expectation and encouragement for the English-language specialty commercial FM radio programming undertaking CIRH-FM Vancouver, British Columbia

Terms

The licence will expire 31 August 2024.

The applicant is required to inform the Commission in writing once it is prepared to commence operations.

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 operate the station within the specialty format as defined in *A Review of Certain Matters Concerning Radio*, Public Notice CRTC 1995-60, 21 April 1995, and *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. The licensee shall ensure that a minimum of 50% of all musical selections broadcast during each broadcast week are devoted to selections drawn from content category 3 (Special Interest Music).
4. 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*, as amended from time to time, in any broadcast week:
 1. 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
 2. 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 (Popular Music) to Canadian selections broadcast in their entirety.
5. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(3) of the *Radio Regulations, 1986*, as amended from time to time, devote, in each broadcast week, a minimum of 40% of its musical selections from content category 3 (Special Interest Music) to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.

For the purposes of the conditions of this licence, the terms “broadcast day,” “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as those set out in the *Radio Regulations, 1986*, as amended from time to time.

6. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall, upon resumption of operations, make a total contribution of \$1,127,000 over seven consecutive broadcast years to the promotion and development of Canadian content and allotted each year as follows:

Year 1	\$161,000
Year 2	\$161,000
Year 3	\$161,000
Year 4	\$161,000
Year 5	\$161,000
Year 6	\$161,000
Year 7	\$161,000

The licensee shall allocate the following amounts of its additional annual CCD contribution to FACTOR:

Year 1	\$32,200
Year 2	\$32,200
Year 3	\$32,200
Year 4	\$32,200
Year 5	\$32,200
Year 6	\$32,200
Year 7	\$32,200

The remaining amounts of this additional CCD contribution 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.

7. In addition to the required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall make a one-time over-and-above CCD contribution of \$200,240 within 30 days of the station’s resumption of operations of which 20% shall be allocated to FACTOR.

The remaining amounts of this additional CCD contribution 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.

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.