



Broadcasting Decision CRTC 2021-68

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Reference: Part 1 licence renewal application posted on 30 October 2020

Ottawa, 17 February 2021

Rogers Media Inc.

Sechelt, Gibsons and Pender Harbour, British Columbia

Public record for this application: 2019-0925-1

CFUN-FM Sechelt and its transmitters CISC-FM Gibsons and CKLG-FM Pender Harbour – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CFUN-FM Sechelt, British Columbia, and its transmitters CISC-FM Gibsons and CKLG-FM Pender Harbour from 1 March 2021 to 31 August 2025. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements.*

Application

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act*, to issue and renew 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 *Broadcasting Act*.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-194, which listed the radio stations for which the broadcasting licences would expire 31 August 2020 and therefore needed to be renewed to continue their operations. In that notice of consultation, the Commission requested that the licensees of those stations submit renewal applications for their broadcasting licences.
3. In response, Rogers Media Inc. (Rogers Media) filed an application to renew the broadcasting licence for the English-language commercial radio station CFUN-FM Sechelt, British Columbia, and its transmitters CISC-FM Gibsons and CKLG-FM Pender Harbour, which expires 28 February 2021.¹ The Commission did not receive any interventions in regard to this application.

¹ The original licence expiry date for this station was 31 August 2020. The licence was administratively renewed from 1 September 2020 until 28 February 2021 as a result of Broadcasting Decision 2020-284.

Non-compliance

4. Section 10(1)(i) of the *Broadcasting Act* authorizes the Commission, in furtherance of its objects, to make regulations 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.
5. Pursuant to this authority, the Commission made section 9(3)(b) of the *Radio Regulations, 1986* (the Regulations), which sets out the requirements regarding the information on musical selections that licensees must include in their lists of musical selections for any period specified by the Commission.
6. Following a review of CFUN-FM's programming of the 11 to 17 November 2018 broadcast week, in a letter dated 25 January 2019, the Commission informed Rogers Media that 57 of the musical selections broadcast were not identified in the music list filed by the licensee.
7. In its reply, the licensee noted that CFUN-FM operates as a rebroadcasting station for both CISQ-FM Squamish and CISW-FM Whistler, British Columbia. It submitted that the missing musical selections were the result of a one-time coding issue relating to a system-wide upgrade to the MusicMaster playout system for all of Rogers Sports & Media Inc.'s (RSM) radio stations, which has since been completed.
8. Rogers Media stated that since all of the station's musical selections have been transitioned to RSM's new MusicMaster system and re-coded, it does not expect to encounter any technical issues with providing complete music lists in the future. The licensee added that CFUN-FM's engineering department has implemented a custom-made software fix for the issues the station encountered in providing reconciled Wide Orbit reports. The software fix consists of an "automation script" that is specific to CFUN-FM, CISQ-FM and CISW-FM and reconciles their shared programming such that CFUN-FM is now able to produce automatic reconciled Wide Orbit reports that do not have to be manually corrected. Rogers Media noted that the script has been in use since the issues with reporting were identified during the performance evaluation, and that it is now able to produce accurate reconciled reports when required.
9. In light of the above, in regard to CFUN-FM, the Commission finds the licensee in non-compliance with section 9(3)(b) of the Regulations.

Regulatory measures

10. 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 number, recurrence and seriousness of the instances of 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.

11. In regard to the licensee's non-compliance with section 9(3)(b) of the Regulations, Rogers Media has acknowledged the non-compliance, has demonstrated an understanding of the regulatory requirements, and has taken the appropriate corrective actions to address the issues leading to non-compliance. In the Commission's view, the measures put in place by the licensee should allow it to operate the station in compliance with regulatory requirements going forward. Nevertheless, given the seriousness of this instance of non-compliance, the Commission finds that it would be appropriate to renew the broadcasting licence for CFUN-FM for a short-term period, which will allow for an earlier review of the licensee's compliance with its regulatory requirements.

Conclusion

12. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CFUN-FM Sechelt, British Columbia, and its transmitters CISC-FM Gibsons and CKLG-FM Pender Harbour from 1 March 2021 to 31 August 2025. The **conditions of licence** for this station are set out in the appendix to this decision.

Reminders

Radio monitoring materials

13. 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 requirements. The retention of these radio monitoring materials also 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, files material that is incomplete, 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.

Local news and local programming

14. Local radio stations are an important daily source of local news and information for communities. Holding a broadcasting licence comes with conditions, regulatory obligations and responsibilities, which include contributing to the Canadian broadcasting system by ensuring that Canadians have access to local programming that reflects their needs and interests and informs them of important current issues.

15. Rogers Media proposed to broadcast on CFUN-FM during each broadcast week 53 minutes of news and 126 hours of local programming. In regard to local

programming, the Commission notes that the licensee is currently required, by condition of licence,² to ensure that not less than 2.5 hours of station-produced programming (which, as specified in Broadcasting Public Notice 2006-158, is local programming) is broadcast on the station each broadcast week.

16. CFUN-FM was originally licensed to operate in a single-station market. In Public Notice 1993-121, the Commission specified that licensees of commercial stations in such markets are excluded from the standard requirement to devote at least one-third of the broadcast week to local programming in order to solicit or accept local advertising. The Commission also recognized that changing circumstances, such as those resulting from future licensing action or possible station closures, may, by strict interpretation, render the definition of single-station market inapplicable to a given community. As a general rule, however, once exempted from the policy requirements by the Commission, these stations will continue to be exempt.
17. Although CFUN-FM no longer operates in a single-station market,³ it continues to be excluded from the standard requirement to devote at least one-third of the broadcast week to local programming in order to solicit or accept local advertising.⁴ However, this does not preclude the station from broadcasting local programming in order to provide sufficient service to the communities it serves. In this regard, Broadcasting Public Notice 2006-158 specifies that FM radio stations in competitive markets must ensure that one-third of the programming broadcast is local programming, and that licensees will be required, in their licence renewal applications, to address local programming and describe how the service they provide meets the particular needs and interests of their local communities.
18. In regard to the licensee's proposal regarding the broadcast of news on CFUN-FM, although Broadcasting Public Notice 2006-158 does not specify a minimum level of weekly news to be broadcast, it does specify the type of spoken word material that must be included as part of a station's local programming.
19. In light of the above, the Commission encourages Rogers Media to make available to the communities served by CFUN-FM and its transmitters a reasonable amount of daily local programming, which includes daily local news and information, in order to ensure that the station provides those communities with a satisfactory level of local service. In addition, in accordance with Broadcasting Public Notice 2006-158, the Commission reminds the licensee that CFUN-FM, in its local programming, must incorporate spoken word material of direct and particular relevance to the communities served, and that this programming must include local news, weather, sports coverage, and the promotion of local events and activities.

² See condition of licence 3 set out in Appendix 5 to Broadcasting Decision 2013-644.

³ The Sechelt radio market is also served by the English-language commercial radio station CKAY-FM Sechelt.

⁴ See condition of licence 2 set out in Appendix 5 to Broadcasting Decision 2013-644.

Force and effect of broadcasting licences

20. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Employment equity

21. Because this licensee is subject to the *Employment Equity Act* and files reports with the Department of Employment and Social Development, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-284, 21 August 2020
- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-194, 3 June 2019
- *Update on the Commission’s approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Various commercial radio programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-644, 2 December 2013
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Local programming policy for FM radio – Definition of a single-station market*, Public Notice CRTC 1993-121, 17 August 1993

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2021-68

Terms, conditions of licence and expectation for the English-language commercial radio programming undertaking CFUN-FM Sechart, British Columbia, and its transmitters CISC-FM Gibsons and CKLG-FM Pender Harbour

Terms

The licence will expire 31 August 2025.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. The station is exempt from the requirement set out in *Local programming policy for FM radio – Definition of a single-station market*, Public Notice CRTC 1993-121, 17 August 1993, according to which in order to solicit or accept local advertising, at least one-third of its programming must be local programming.
3. The licensee shall ensure that not less than 2.5 hours of station-produced programming is broadcast on the station each broadcast week.

Expectation

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