



## Broadcasting Decision CRTC 2021-70

PDF version

References: Part 1 licence renewal applications posted on 30 October 2020

Ottawa, 18 February 2021

### Various licensees

Various locations across Canada

*Public record for these applications: The application numbers are set out in the decision.*

### Various commercial radio stations – Licence renewals

*The Commission **renews** the broadcasting licences for the English-language commercial radio stations CKRC-FM Weyburn, Saskatchewan; CJSB-FM Swan River, Manitoba, and its transmitter CJSB-FM-2 Benito; CKDM Dauphin, Manitoba; and CFMP-FM Arnprior, Ontario, from 1 March 2021 to 31 August 2027.*

### Applications

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, the licensees noted below filed applications to renew the broadcasting licences for the following English-language commercial radio stations, which expire 28 February 2021.<sup>1</sup> The Commission did not receive any interventions in regard to these applications.

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<sup>1</sup> The original licence expiry date for these stations was 31 August 2020. The licences were administratively renewed from 1 September 2020 until 28 February 2021 as a result of Broadcasting Decision 2020-284.

Licensee	Call sign and locality	Application number
Golden West Broadcasting Ltd.	CKRC-FM Weyburn, Saskatchewan	2019-0598-6
Stillwater Broadcasting Ltd.	CJSB-FM Swan River, Manitoba, and its transmitter CJSB-FM-2 Benito	2019-0630-7
Dauphin Broadcasting Company Limited	CKDM Dauphin, Manitoba	2019-0992-0
My Broadcasting Corporation	CFMP-FM Arnprior, Ontario	2019-0501-9

## Non-compliance

### Annual returns – CKDM Dauphin

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(2) of the *Radio Regulations, 1986* (the Regulations), which requires licensees to file an annual return, including financial statements, by no later than 30 November of a given year for the broadcast year ending the previous 31 August. The specific filing requirements, including the requirement to file financial statements, are set out in Broadcasting Information Bulletin 2011-795.
6. In a letter dated 1 November 2019, the Commission informed Dauphin Broadcasting Company Limited (Dauphin Broadcasting), licensee of CKDM Dauphin, that the station's annual return for the 2015-2016 broadcast year was filed on 21 April 2017, five months after the 30 November deadline.
7. In its reply, the licensee submitted that following the retirement of its long-time accountant, the station's accounting firm, Accent Accounting, hired a replacement accountant, who did not follow through with the filing of CKDM's annual return. Further, this replacement accountant left during the year, which led to the need for the station to go through a new orientation process. This, combined with the station moving to a new facility and all data being moved to new computers, complicated matters.
8. Dauphin Broadcasting stated that it has received assurances from its accounting firm that, going forward, the station's annual returns will be filed on time, and that it has put the necessary controls in place to ensure compliance in the future.
9. In light of the above, in regard to CKDM, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations for the 2015-2016 broadcast year.

**Radio monitoring materials – Filing of accurate and complete music lists – CKRC-FM Weyburn and CJSB-FM Swan River**

10. Pursuant to the authority granted by section 10(1)(i) of the *Broadcasting Act*, the Commission made section 9(3)(b) of 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.

**CKRC-FM Weyburn**

11. In a letter dated 1 March 2019, the Commission informed Golden West Broadcasting Ltd. (Golden West), licensee of CKRC-FM Weyburn, that for the 4 to 10 November 2018 broadcast week, 108 musical selections that were aired during that broadcast week were not identified in the station's list of musical selections.
12. In its reply, the licensee indicated that the 108 musical selections in question were on the American Top 40 program cue sheets that it had filed with the Commission, which it noted was an acceptable format in the past, provided that all of the music aired was accurately reflected and identified. Golden West acknowledged, however, that reflective of the Commission performance evaluation of March 2019, the filing of cue sheets no longer constituted an acceptable practice for reporting on musical selections broadcast.
13. Golden West stated that it has taken steps to ensure full compliance during the next licence term, including the manual insertion of each individual selection airing within the American Top 40 into the report generated by the station's internal software.
14. Whereas the Commission has in the past considered it acceptable for radio station licensees to submit music lists with cue sheets, it internally revised the submission procedure for music lists in the fall of 2018, in order to reconcile music lists with cue sheets and to allow for the use of an automated radio monitoring process. This new procedure was meant to better reflect business processes that will be in place in the future.
15. In regard to Golden West's apparent non-compliance with section 9(3)(b) of the Regulations, the Commission acknowledges that the licensee was not informed of the revision to the submission procedure, and could therefore not have reasonably been expected to adhere to the new procedure. Further, the Commission considers that the licensee has demonstrated an understanding of its regulatory obligations, has taken the appropriate corrective actions to address the issue, and has put the necessary measures in place to ensure the station's compliance with its regulatory requirements going forward. Accordingly, the Commission considers that a finding of non-compliance is not justified in regard to CKRC-FM and, therefore, that measures to address non-compliance are not warranted for the station.

## **CJSB-FM Swan River**

16. In a letter dated 8 November 2018, the Commission informed Stillwater Broadcasting Ltd. (Stillwater Broadcasting), licensee of CJSB-FM Swan River, that for the 9 to 15 September 2018 broadcast week, musical selections from content category 3 (Special Interest Music) along with instrumental musical selections that were broadcast on the station were not identified in the station's list of musical selections. In addition, 15 instrumental musical selections that aired during "The Polka Show" were not identified as such. In this regard, the licensee had indicated that no content category 3 musical selections and no instrumental musical selections were broadcast during the above-noted broadcast week.
17. In its reply, Stillwater Broadcasting submitted that the discrepancy was a result of a failure to check the content category 3 and instrumental musical selections listed in the syndicated programming provided to the station. It noted that CJSB-FM generally broadcasts exclusively content category 2 (Popular Music) musical selections, and that when the station's self-assessment report was completed, station staff did not indicate which musical selections were from content category 2. As such, the licensee considered all of the musical selections to be content category 2 musical selections.
18. The licensee added that the content category infractions occurred only in CJSB-FM's specialty block programming and not in its general programming, and are not indicative of a day-to-day issue with all of the station's programming. It added that CJSB-FM, as a small radio station, faces the choice of doing its best to provide as much diversity and content as possible by following the 35% regulatory minimum for the broadcast of Canadian content.<sup>2</sup>
19. Stillwater Broadcasting stated that it is possible to manually categorize musical selections in preparing CJSB-FM's self-assessment report, and that it intends to do so at the next assessment for the station.
20. In light of the above, in regard to CJSB-FM, the Commission finds the licensee in non-compliance with section 9(3)(b) of the Regulations.

## **Canadian content development contributions – CFMP-FM Arnprior**

21. Sections 3(1)(e) and (s) of the *Broadcasting 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.
22. Pursuant to the authority granted by section 9(1) of the *Broadcasting Act*, and consistent with sections 3(1)(e) and 3(1)(s)(i), the Commission has imposed

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<sup>2</sup> See section 2.2(8) of the Regulations.

conditions of licence requiring programming undertakings to contribute in various ways to the creation of Canadian programming, including imposing Canadian content development (CCD) contribution requirements.

23. In Broadcasting Decision 2014-158, the Commission approved an application by My Broadcasting Corporation (MBC) for a broadcasting licence to operate an English-language FM radio station in Arnprior, Ontario, which would launch as CFMP-FM Arnprior. As noted in that decision, MBC proposed to make an annual contribution of \$500 (totalling \$3,500 over seven consecutive broadcast years) to the promotion and development of Canadian content, which would be over-and-above the basic annual contribution to CCD set out in section 15 of the Regulations. Accordingly, in the appendix to Broadcasting Decision 2014-158, the Commission imposed the following condition of licence:
  3. In addition to the basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, the licensee shall, upon commencement of operations, make an annual contribution of \$500 (\$3,500 over seven consecutive broadcast years) to the promotion and development of Canadian content. Of this amount, 20% per broadcast year shall be devoted to FACTOR or MUSICACTION. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.
24. In a letter dated 29 November 2019, the Commission informed MBC that it did not make any CCD contributions for the 2015-2016 broadcast year, and that based on a pro-rated amount owing in the first year of operation (where the station began operations on 20 May 2016), the station incurred a CCD contribution shortfall of \$125.
25. In its reply, the licensee submitted that the above-noted shortfall was due to an oversight on the part of senior management, who did not fully understand the requirements set out in Broadcasting Information Bulletin 2009-251 relating to the timing of over-and-above CCD contributions within the first year of a radio station's operations.
26. MBC stated that its senior management is now fully aware of these requirements, and that training has been given to administrative staff so as to avoid repeating the error in the future. The licensee added that it would endeavour to make the payment by 31 August 2020.
27. In light of the above, in regard to CFMP-FM, the Commission finds the licensee in non-compliance with condition of licence 3 set out in the appendix to Broadcasting Decision 2014-158.

## Regulatory measures

28. 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.

### CKDM Dauphin

29. In regard to Dauphin Broadcasting's non-compliance with section 9(2) of the Regulations, the Commission notes that the licensee has been given assurances by its accounting firm, Accent Accounting, that the error leading to the non-compliance will not be repeated. In addition, the licensee has requested that its accounting firm provide it with a copy of CKDM's annual returns, in addition to filing those returns directly with the Commission. In the Commission's view, Dauphin Broadcasting has put the necessary measures in place to ensure the station's compliance with its regulatory requirements going forward. Accordingly, the Commission finds that no further measures are warranted in regard to this licensee's non-compliance.

### CJSB-FM Swan River

30. In regard to Stillwater Broadcasting's non-compliance with section 9(3)(b) of the Regulations, the Commission notes that this is the licensee's first instance of non-compliance since being granted a broadcasting licence in 2006 to operate CJSB-FM, and that addressing the minor deficiencies in the logging details for the station only required clarification on the part of the licensee. Accordingly, the Commission finds that no further measures are warranted in regard to this licensee's non-compliance.

### CFMP-FM Arnprior

31. In regard to MBC's non-compliance with CFMP-FM's condition of licence relating to over-and-above CCD contributions, the Commission considers that this instance of non-compliance is an isolated incident, given that this station's CCD contributions for all other broadcast years were made on time. In the Commission's view, the licensee has demonstrated an understanding of its regulatory obligations and has put the necessary measures in place to ensure the station's compliance with its regulatory requirements going forward.

32. However, the annual returns filed for CFMP-FM for the 2019-2020 broadcast year show that MBC did not fulfill its above-noted commitment to pay the CCD contribution shortfall amount of \$125 for the 2015-2016 broadcast year by 31 August 2020. The Commission finds that it would be appropriate to require the licensee to rectify this shortfall by no later than the end of the 2020-2021 broadcast year (i.e., by 31 August 2021). A **condition of licence** to this effect is set out in the appendix to this decision.

## Conclusion

33. In light of all of the above, the Commission **renews** the broadcasting licences for the English-language commercial radio programming undertakings set out below from 1 March 2021 to 31 August 2027. The **conditions of licence** for these stations are set out in the appendix to this decision.

Licensee	Call sign and locality
Golden West Broadcasting Ltd.	CKRC-FM Weyburn, Saskatchewan
Stillwater Broadcasting Ltd.	CJSB-FM Swan River, Manitoba, and its transmitter CJSB-FM-2 Benito
Dauphin Broadcasting Company Limited	CKDM Dauphin, Manitoba
My Broadcasting Corporation	CFMP-FM Arnprior, Ontario

### CFMP-FM Arnprior and remaining Canadian content development contributions

34. As noted above, in Broadcasting Decision 2014-158, the Commission required MBC, by condition of licence, to make, in addition to the basic annual contribution to CCD set out in section 15 of the Regulations, an annual over-and-above CCD contribution of \$500 (\$3,500 over seven consecutive broadcast years) to the promotion and development of Canadian content upon commencement of operations.

35. Based on this payment schedule, the licensee will fulfill the above CCD contribution requirement by the end of the 2021-2022 broadcast year, after which it will only be subject to the basic annual CCD contribution requirement set out in the Regulations. Accordingly, the Commission considers that it would be appropriate to reiterate the condition of licence imposed on CFMP-FM in Broadcasting Decision 2014-158, but with modifications to indicate the remaining broadcast years during which the licensee must make over-and-above CCD contributions. In addition, the Commission considers that it would be appropriate to indicate in the modified condition of licence the pro-rated amount of \$375 representing the remaining nine months of the station's first year of operations. This **condition of licence** is set out in the appendix to this decision.

## Reminders

### Annual returns

36. Licensees are responsible for filing complete annual returns on time. As set out in Broadcasting Information Bulletin 2011-795, it is a licensee's responsibility to ensure that all appropriate forms and documentation are included with its annual returns and to contact the Commission if further clarification is required.

## **Radio monitoring materials**

37. 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.

## **Over-and-above Canadian content development contributions**

38. It is important that radio station licensees make their required contributions to CCD, given that CCD initiatives not only help to develop and advance the careers of emerging Canadian artists, but increase the supply of high-quality Canadian music in a variety of genres and the demand for Canadian music by listeners. The non-payment of CCD contributions therefore has the potential to cause harm to the Canadian broadcasting system.

39. It is incumbent upon licensees to provide, by the required deadlines, proof of payment to such initiatives. Licensees must also provide sufficient documentation to support the eligibility of their contributions. Failure to do so may result in the Commission finding a contribution ineligible, which in turn may affect a station's compliance with regulatory obligations.

## **Force and effect of broadcasting licences**

40. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licences renewed in this decision will cease to have any force or effect if the broadcasting certificates issued by the Department of Industry lapse.

## **Employment equity**

41. Because Golden West and MBC are subject to the *Employment Equity Act* and file reports with the Department of Employment and Social Development, their 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
- *English-language FM radio station in Arnprior*, Broadcasting Decision CRTC 2014-158, 2 April 2014
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Clarifications regarding Canadian content development contributions made by commercial radio stations*, Broadcasting Information Bulletin CRTC 2009-251, 5 May 2009

*This decision is to be appended to each licence.*

## **Appendix to Broadcasting Decision CRTC 2021-70**

### **Terms, conditions of licence, expectation and encouragement for the English-language commercial radio programming undertakings for which the broadcasting licences are renewed in this decision**

#### **Terms**

The licence will expire 31 August 2027.

#### **Conditions of licence applicable to all stations**

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.

#### **Additional condition of licence applicable to CKRC-FM Weyburn, Saskatchewan**

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

For the purposes of this condition of licence:

- the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as those set out in the Regulations; and
- content category 2 (Popular Music) is defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.

#### **Additional conditions of licence applicable to CFMP-FM Arnprior, Ontario**

3. As an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), the licensee shall devote at least 38% of its musical selections from content category 2

(Popular Music) in each broadcast week and between 6 a.m. and 6 p.m. from Monday to Friday to Canadian selections broadcast in their entirety.

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

4. To fulfill its outstanding commitments to Canadian content development (CCD) set out in the appendix to *English-language FM radio station in Arnprior*, Broadcasting Decision CRTC 2014-158, 2 April 2014, the licensee shall, in addition to the basic annual contribution to CCD set out in section 15 of the *Radio Regulations, 1986*, make contributions of \$500 during the 2020-2021 broadcast year and \$875 (the annual over-and-above CCD contribution of \$500 and the pro-rated amount of \$375 representing the remaining nine months of the station’s first year of operations) during the 2021-2022 broadcast year to the promotion and development of Canadian content. Of these amounts, no less than 20% per broadcast year shall be devoted to FACTOR or Musicaction. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.
5. In order to rectify the Canadian content development (CCD) contribution shortfall incurred by the licensee for CFMP-FM Arnprior, Ontario, as specified in *Various commercial radio stations – Licence renewals*, Broadcasting Decision CRTC 2021-70, 18 February 2021, the licensee shall, by no later than 31 August 2021, make a \$125 contribution to CCD that is over and above the CCD contributions currently required pursuant to the *Radio Regulations, 1986* or by condition of licence. This contribution shall be devoted to FACTOR, Musicaction and/or an eligible initiative set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006. In addition, the licensee shall file, by 30 November 2021, and in a form deemed acceptable by the Commission, proof of payment regarding the additional contribution to CCD as well as supporting documentation for the eligibility of the portion of the contribution not made in whole or in part to FACTOR or Musicaction.

#### **Expectation applicable to all stations**

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

#### **Encouragement applicable to CJSB-FM Swan River, Manitoba, and its transmitter CJSB-FM-2 Benito; and CKDM Dauphin, Manitoba**

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.