



Broadcasting Decision CRTC 2023-295

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Reference: Part 1 licence renewal application posted on 22 November 2022

Ottawa, 28 August 2023

CIRC Radio Inc.
Toronto, Ontario

Public record: 2022-0619-3

CIRV-FM Toronto – Licence renewal

Summary

The Commission **renews** the broadcasting licence for the commercial ethnic specialty radio station CIRV-FM Toronto, Ontario, from 1 September 2023 to 31 August 2030.

Application

1. The Commission has the authority, pursuant to subsections 9(1) and 9.1(1) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*.
2. On 10 June 2022, the Commission issued Broadcasting Notice of Consultation 2022-152,¹ which listed radio stations for which the broadcasting licences would expire 31 August 2023 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, CIRC Radio Inc. filed an application to renew the broadcasting licence for the commercial ethnic specialty radio station CIRV-FM Toronto, Ontario, which expires 31 August 2023.² The Commission received an intervention from 8041393 Canada Inc., licensee of CJRK-FM Scarborough (a commercial ethnic specialty radio station), commenting on the application. The licensee replied to the intervention.

¹ As corrected in Broadcasting Notice of Consultation 2022-152-1.

² The original licence expiry date for the station was 31 August 2021. The licence was administratively renewed until 31 August 2022 as a result of Broadcasting Decision 2020-381, and until 31 August 2023 as a result of Broadcasting Decision 2021-298.

Intervention and reply

4. In its intervention, 8041393 Canada Inc. did not object to the licence renewal, but commented primarily on what it considers to be unfair competition in the Toronto market. Specifically, the intervener stated that CIRV-FM offers distinct programming in HD Radio in other languages, such as Persian and Tamil, which the intervener considered to be competing directly with its own station, and that this has led to a loss of advertising revenue for CJRK-FM.
5. The licensee replied that there are no restrictions on the number of languages in which it can broadcast. The licensee stated that it began broadcasting in HD Radio and informed the Commission of this in writing in accordance with Broadcasting Regulatory Policy 2014-554, in which the Commission determined that HD Radio could continue to be implemented on an experimental basis.
6. The licensee also indicated that in Broadcasting Regulatory Policy 2022-332, the Commission determined that it would not take any regulatory measures to restrict the use of HD Radio technology.
7. Finally, the licensee considered that CJRK-FM's loss of revenues is not a result of unfair competition by CIRV-FM and other stations, but rather a factor of the extent of competition from incumbent ethnic radio stations in the Greater Toronto Area, which it considered that CJRK-FM would have been aware of when it first competed for its licence.
8. The Commission considers that the licensee is operating within the policy guidelines for HD Radio set out in Broadcasting Regulatory Policies 2014-554 and 2022-332.

Apparent non-compliance

9. Paragraph 10(1)(i) of the old *Broadcasting Act*, which was in effect while the licensee's application was being considered, granted the Commission the authority, 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.
10. Pursuant to this authority, the Commission made subsection 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 and in Circular No. 404.
11. Subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, stipulates that any regulation made pursuant to paragraph 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new

Broadcasting Act. Accordingly, subsection 9(2) of the Regulations is considered to be a condition of service pursuant to paragraph 9.1(1)(o) of the new *Broadcasting Act*, and licensees continue to be subject to this requirement.

12. According to Commission records, the annual returns for CIRV-FM that were provided to the Commission for the 2016-2017 broadcast year did not include financial statements.
13. The licensee stated that the completion of the 2016-2017 financial statements was problematic for a number of reasons, mainly because of the closing date of the ownership transaction on 3 November 2016, two months into the 2016-2017 broadcast year.³ The current owner became aware of problems with the preparation of financial statements for this two-month period in Fall 2017, and indicated that it contacted the Commission about these issues and that it expected filing delays.
14. The licensee stated that financial statements were completed in January 2018, but that it was unable to locate proof that they were filed with the Commission at that time.
15. In light of the above, the Commission finds the licensee in non-compliance with subsection 9(2) of the Regulations for the 2016-2017 broadcast year.

Regulatory measures

16. 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.
17. In regard to the licensee's non-compliance with subsection 9(2) of the Regulations, the Commission notes that upon receiving notification of the missing financial statements, the licensee submitted the documents immediately. Financial statements were filed for all broadcast years subsequent to 2016-2017 (the year that the station was acquired by the current owner), and the current owner of the station has retained the services of a chartered professional accountant firm to complete and file financial statements.
18. The Commission is of the view that the licensee has demonstrated its ability to fully comply with subsection 9(2) of the Regulations. The Commission therefore finds that the imposition of further corrective measures is not necessary.

³ In a letter decision dated 12 October 2016, the Commission approved an application to change the ownership and effective control of CIRC Radio Inc.

Conclusion

19. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial ethnic specialty radio programming undertaking CIRV-FM Toronto, Ontario, from 1 September 2023 to 31 August 2030.
20. Pursuant to subsection 49(1) of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act*. As such, the conditions of licence for this licensee became conditions of service and continue to apply to the licensee. For ease of reference, the **conditions of service** for this licensee are set out in the appendix to this decision.⁴ Further, the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. The licensee shall also adhere to any such requirements set out in the broadcasting licence for the undertaking.

Reminders

21. The Commission reminds the licensee that it must comply at all times with the requirements set out in the *Broadcasting Act*, the Regulations, its licence and its conditions of service.

Annual returns and financial statements

22. Licensees are responsible for filing complete annual returns on time, including financial statements. As set out in Broadcasting Information Bulletin 2011-795, it is the 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.

Local news

23. Radio stations are an important daily source of local news and information for communities. Carrying on a broadcasting undertaking 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.
24. Although Broadcasting Regulatory Policy 2022-332 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. In accordance with that regulatory policy, the Commission reminds the licensee that its station, in its

⁴ The Commission notes that CIRV-FM's current conditions do not adequately reflect the station's status as a commercial specialty radio station and that changes are necessary to ensure clarity. Accordingly, the Commission changes the conditions to ensure the licence properly reflects the station's status as a commercial specialty radio programming undertaking broadcasting ethnic programming.

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. In addition, the Commission encourages the licensee to ensure that a reasonable amount of daily local news and information is made available to those communities.

Force and effect of broadcasting licences

25. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect should the broadcasting certificates issued by the Department of Industry (also known as Innovation, Science and Economic Development Canada) lapse.

Practical guide for radio licence renewals

26. To learn more about the Commission's review of compliance with requirements relating to radio licences, and about the radio renewal process, please consult the Commission's [Practical guide to radio licence renewals](#).

Secretary General

Related documents

- *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022
- *Call for licence renewal applications – Submission of renewal applications for broadcasting licences of radio stations expiring on 31 August 2023 – Regular renewal process*, Broadcasting Notice of Consultation CRTC 2022-152, 10 June 2022, as corrected by Broadcasting Notice of Consultation CRTC 2022-152-1, 18 August 2022
- *Various radio and audio programming undertakings and network – Administrative renewals*, Broadcasting Decision CRTC 2021-298, 30 August 2021
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-381, 27 November 2020
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Requirements for the Filing of Financial Statements with the Broadcasting Annual Return*, Circular No. 404, 23 August 1994

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-295

Terms, conditions of service, expectations and encouragement for the commercial ethnic specialty radio programming undertaking CIRV-FM Toronto, Ontario

Terms

The licence will expire 31 August 2030.

Conditions of service

1. The licensee shall adhere to the conditions of service set out in *Revised conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2022-334, 7 December 2022, with the exception of condition of service 7. Further, the licensee shall adhere to the requirements set out in the broadcasting licence for the undertaking.
2. The licensee shall adhere to all applicable requirements set out in the *Radio Regulations, 1986*, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.⁵
3. 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, in conjunction with *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2022-333, 7 December 2022.
4. The licensee shall provide programming directed to a minimum of nine cultural groups in a minimum of nine different languages.
5. The licensee is authorized to use a subsidiary communications multiplex operations (SCMO) channel for the purpose of broadcasting a 100% Portuguese-language radio service.

Expectations

Cultural diversity

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

⁵ Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulations made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

Canadian emerging artists

Consistent with the Commission's determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to devote, in each broadcast week, at least 5% of the station's musical selections to selections from Canadian emerging artists broadcast in their entirety. The licensee should report annually on how it has met this expectation, including the percentage of selections from Canadian emerging artists out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the definition of "Canadian emerging artist" is the same as that set out in paragraph 346 of Broadcasting Regulatory Policy 2022-332.

Indigenous musical selections

Consistent with the Commission's determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to include Indigenous musical selections on the station's playlist. The licensee should report annually on the amount of Indigenous content aired on the station throughout the broadcast year (i.e., from 1 September to 31 August), including the percentage of Indigenous musical selections out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the licensee may use the provisional definition of "Indigenous-Canadian musical selection" set out in paragraph 441 of Broadcasting Regulatory Policy 2022-332 to determine whether a musical selection can be considered an Indigenous musical selection.

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 in its hiring practices and in all other aspects of its management of human resources.