



## Broadcasting Decision CRTC 2007-433

Ottawa, 24 December 2007

### **1158556 Ontario Ltd.**

Timmins, North Bay, Iroquois Falls, Kirkland Lake, New Liskeard,  
Sault Ste Marie, Elliot Lake, Chapleau, Wawa and Kapuskasing, Ontario, and  
Red Deer, Alberta

*Application 2007-0283-8, received 23 February 2007*

*Broadcasting Public Notice CRTC 2007-110*

*2 October 2007*

### **CHIM-FM Timmins – Licence renewal**

*In this decision, the Commission **renews** the broadcasting licence for the commercial radio programming undertaking CHIM-FM Timmins and its transmitters at the above-mentioned locations, from 1 January 2008 to 31 August 2011. The Commission's decision to impose a short-term renewal period will allow it to assess at an earlier date the licensee's compliance with the Radio Regulations, 1986 as they pertain to the filing of annual returns, and with the requirement, set out in the Commercial Radio Policy 2006, that the licensee make financial contributions to the development of Canadian content.*

### **Introduction**

1. The Commission received an application by 1158556 Ontario Ltd. (1158556 Ontario) to renew the broadcasting licence for the commercial radio programming undertaking CHIM-FM Timmins and its transmitters CHIM-FM-1 North Bay, CHIM-FM-2 Iroquois Falls, CHIM-FM-3 Kirkland Lake, CHIM-FM-4 New Liskeard, CHIM-FM-6 Sault Ste Marie, CHIM-FM-7 Elliot Lake, CHIM-FM-8 Chapleau, CHIM-FM-9 Wawa and CHIM-FM-10 Kapuskasing, Ontario, and CHIM-FM-5 Red Deer, Alberta. The current licences expire 31 December 2007.<sup>1</sup>
2. The licensee also proposed to devote, by condition of licence, at least 15% of its musical selections from content category 3 (Special Interest Music) to Canadian musical selections.
3. In Broadcasting Public Notice 2007-110, the Commission noted that the licensee may have failed to comply with section 9(2) of the *Radio Regulations, 1986* (the Regulations) pertaining to the submission of annual reports, for the years 2001, 2002, 2003 and 2004.

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<sup>1</sup> In Broadcasting Decision 2007-301, the Commission administratively renewed CHIM-FM's licence from 1 September to 30 November 2007, and in Broadcasting Decision 2007-400, the Commission administratively renewed CHIM-FM's licence from 1 December to 31 December 2007.

4. In that public notice, the Commission also noted that the licensee may have failed to comply with the requirements regarding its contribution to Canadian talent development (CTD) for the broadcast years 2001 through 2006.
5. The Commission received several interventions in support of this application.

#### **Non-compliance**

6. In a letter dated 28 August 2007, the Commission advised 1158556 Ontario that, in regard to the broadcast years 2001 through 2004, it was in apparent non-compliance with section 9(2) of the Regulations pertaining to the filing of annual reports, and requested that the licensee submit the required documents by 7 September 2007. The Commission notes that the complete set of required documents was received by 6 December 2007.
7. In the same letter, the Commission also advised the licensee that, for the broadcast years 2001 through 2006, it was in apparent non-compliance with its condition of licence relating to contributions to the Canadian Association of Broadcasters' (CAB's) former CTD plan.
8. In its reply letter dated 21 September 2007, the licensee explained that 75% of its listeners who had pledged monetary contributions to the station had failed to follow through on those pledges, and that, as a result, CHIM-FM had overestimated the amount of funding it would be able to contribute to CTD initiatives. The licensee also stated that it nevertheless made some payments to artists, totalling approximately \$1,400, and that it had donated about \$22,000 in recording equipment and construction materials to a new studio that is being built on its property. The licensee also stated that it intends to provide professional studio time, free of charge, to new Canadian artists who would otherwise not be able to afford to produce their own CDs.
9. As such, the licensee requested that the Commission consider the above-mentioned contributions as sufficient and not require it to make further contributions so as to meet its shortfall. Further, the licensee confirmed that, over the course of the upcoming licence term, it would adhere to the new basic contribution to Canadian content development (CCD), as set out in Broadcasting Public Notice 2006-158, and that it would contribute the full required annual sum of \$500 to MUSICACTION.

#### **Commission's analysis and determinations**

##### **Non-compliance issues**

10. The Commission notes that this is the first time 1158556 Ontario has been found to be in non-compliance with the Regulations as they pertain to the filing of annual reports. Specifically, the licensee's annual reports for the broadcast years 2001, 2002, 2003 and 2004 were not filed by the prescribed date of 30 November of each broadcast year; the Commission notes, however, that those annual reports have now been filed. In addition, the annual report for the broadcast year 2007 was filed after the prescribed date of 30 November 2007.

11. The Commission also notes that this is the first time 1158556 Ontario has been found to be in non-compliance in regard to required minimum annual financial contributions to CTD initiatives. Specifically, as set out in Public Notice 1995-196, such contributions were to be disbursed on an annual basis, but, in the present case, were made after the dates set out by the Commission. The Commission notes, however, that the licensee has submitted proof that all of its outstanding CTD contributions have been made, and therefore considers that the licensee's request to be relieved of its outstanding financial commitments to CTD is no longer necessary.
12. As set out in Circular No. 444, the Commission notes that when apparent non-compliance is observed for the first time, the station is normally granted a short-term licence renewal, generally for four years, to permit a further review of its compliance within a reasonable period of time. As noted above, this is the first time that 1158556 Ontario has been found to be in non-compliance with respect to the filing of annual reports and with respect to its required contributions to CTD. As such, the Commission finds it appropriate to renew the licence for CHIM-FM for a short-term period of four years, in accordance with Circular No. 444. This short-term renewal will enable the Commission to assess at an earlier date the licensee's compliance with the Regulations, as well as its compliance with its condition of licence relating to the development of Canadian content, which is discussed below.

#### **Percentage of Canadian content**

13. The Commission notes the licensee's proposal to devote at least 15% of its musical selections from content category 3 (Special Interest Music) to Canadian musical selections. A **condition of licence** to that effect is set out in the appendix to this decision.

#### **Conclusion**

14. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial radio programming undertaking CHIM-FM Timmins and its transmitters CHIM-FM-1 North Bay, CHIM-FM-2 Iroquois Falls, CHIM-FM-3 Kirkland Lake, CHIM-FM-4 New Liskeard, CHIM-FM-6 Sault Ste Marie, CHIM-FM-7 Elliot Lake, CHIM-FM-8 Chapleau, CHIM-FM-9 Wawa and CHIM-FM-10 Kapuskasing, Ontario, and CHIM-FM-5 Red Deer, Alberta, from 1 January 2008 to 31 August 2011.
15. The licence will be subject to the **conditions** set out in Public Notice 1999-137, with the exception of condition of licence number 5. The licence will also be subject to the terms and **conditions of licence** set out in the appendix to this decision.
16. The Commission reminds the licensee of the importance of complying with its regulatory requirements and conditions of licence at all times, and emphasizes that it may have recourse to additional measures, including suspension, non-renewal or revocation of the licence, in the event of any future non-compliance.

## Canadian content development

17. In Broadcasting Public Notice 2006-158 (the Commercial Radio Policy 2006), the Commission set out a new approach to the development and promotion of Canadian artists. In order to reflect a new emphasis on development initiatives that lead to the creation of audio content for broadcast using Canadian resources, the Commission replaced the expression “Canadian talent development” (CTD) with “Canadian content development” (CCD). Under the new policy, each radio station holding a commercial radio licence is required to make a basic annual CCD contribution based on its total revenues in the previous broadcast year. This requirement will be reflected in the Regulations. Until such time, it will be implemented by a transitional **condition of licence**, as set out in the appendix to this decision. This condition of licence will expire upon the coming into force of the amendments to the Regulations.

Secretary General

### Related documents

- *Administrative renewal*, Broadcasting Decision CRTC 2007-400, 23 November 2007
- Broadcasting Public Notice CRTC 2007-110, 2 October 2007
- *Administrative renewal*, Broadcasting Decision CRTC 2007-301, 13 August 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Practices regarding radio non-compliance*, Circular No. 444, 7 May 2001
- *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999
- *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998
- *Contributions by radio stations to Canadian talent development – A new approach*, Public Notice CRTC 1995-196, 17 November 1995

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*

# Appendix to Broadcasting Decision CRTC 2007-433

## Terms, conditions of licence and encouragement

### Terms

The licence will expire 31 August 2011.

### Conditions of licence

1. The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition of licence number 5.
2. The licensee shall, in any broadcast week, devote 15% or more of its musical selections from content category 3 (Special Interest Music) to Canadian selections broadcast in their entirety.

For the purpose of this condition, the terms “broadcast week,” “content category” and “musical selection” shall have the meaning set out in section 2 of the *Radio Regulations, 1986*.

3. In regard to Canadian content development (CCD):
  - a) The licensee shall make a basic annual contribution to CCD. The amount of this contribution shall be determined in accordance with the *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (Broadcasting Public Notice 2006-158), as amended from time to time.
  - b) The licensee shall allocate 60% of this basic annual CCD contribution to FACTOR or MUSICACTION.
  - c) The remaining amounts of this basic annual contribution shall be allocated to eligible parties and initiatives as defined in Broadcasting Public Notice 2006-158.

This condition of licence shall expire upon the coming into force of the amendments to the *Radio Regulations, 1986* relating to CCD.

## **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.