



Broadcasting Decision CRTC 2010-647

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Route reference: 2010-146

Additional reference: 2010-146-1

Ottawa, 31 August 2010

Corus Radio Company
Brampton, Ontario

Application 2010-0207-1, received 11 February 2010

CFNY-FM Brampton – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CFNY-FM Brampton from 1 September 2010 to 31 August 2012. This short-term licence renewal will enable the Commission to review, at an earlier date, the licensee's compliance with the Radio Regulations, 1986 and with its conditions of licence.*

*The Commission **directs** the licensee to spend, by no later than 60 days from the date of the present decision, \$20,168 on eligible Canadian content development initiatives, as set out in paragraph 108 of Commercial Radio Policy 2006, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.*

Introduction

1. The Commission received an application by Corus Radio Company (Corus) to renew the broadcasting licence for the English-language commercial radio programming undertaking CFNY-FM Brampton, which expires 31 August 2010. The Commission received an intervention in support of this application.
2. In Broadcasting Notice of Consultation 2010-146-1, the Commission noted that the licensee may have failed to comply with the *Radio Regulations, 1986* (the Regulations) and with its condition of licence relating to contributions to Canadian talent development,¹ for the 2009 broadcast year.

Commission's analysis and determinations

3. After examining the application in light of applicable regulations and policies, the Commission considers that the issue to be addressed in its determinations relates to the licensee's 2009 contribution to Canadian content development (CCD). Specifically, it

¹ As set out in Broadcasting Public Notice 2006-158, the Commission replaced the expression "Canadian talent development" (CTD) with "Canadian content development" (CCD).

appears to the Commission that the licensee may have contributed \$20,168 to a non-eligible CCD initiative, namely, Son House Productions, in order to hire George Stroumboulopoulos, a well-known Canadian media personality, host of the Canadian Broadcasting Corporation's late-night television show "The Hour" and owner of Son House Productions, to host a weekly three-hour program on CFNY-FM to be known as *The Strombo Show*.

4. Corus stated that, in November 2007, it contracted with Son House Productions to provide the above-noted radio program. Noting that this program was designed as a showcase for the new music of independent Canadian music artists and would include interviews with the artists as well as call-ins from listeners, Corus submitted that its chosen host would be an ideal one given his extensive knowledge of pop culture and of the latest trends in the Canadian music industry, and especially of the music of new and emerging artists. Corus further submitted that, due to his high profile, he would provide an outstanding opportunity to promote the development of emerging Canadian talent.
5. Corus further stated that it was looking at a direct expenditure to a third party and believed that the program in question provided high quality audio content for broadcast as well as an excellent forum for the promotion of emerging Canadian talent. It argued that the objective of the show was consistent with CCD objectives, as this program would fulfill the criteria set out in paragraph 107 of Broadcasting Public Notice 2006-158 relating to eligible CCD contributions, which reads as follows:

Contributions should be dedicated to initiatives that will provide high quality audio content for broadcast. All CCD initiatives must involve direct expenditures, and must be allocated to the support, promotion, training and development of Canadian musical and spoken word talent, including journalists.

6. Noting that its contribution for 2009 was made in good faith and that there was some uncertainty in regard to eligible initiatives during the first year of the new CCD regime, Corus requested that, should the Commission determine that the licensee's 2009 CCD contribution was not made to an eligible initiative, it should adopt a non-punitive remedy whereby its CCD contribution for that broadcast year only would be grandfathered as an eligible initiative. Corus also noted that it would accept the consequences of the Commission's decision should it refuse this request.
7. Finally, Corus stated that, in order to ensure compliance by CFNY-FM with the Regulations on a going forward basis, it has taken steps to ensure that issues relating to CCD contributions do not reoccur, including instituting a practice whereby it consults with the Commission prior to taking on any new CCD initiatives. Corus further stated that it understands its obligations, and as a responsible licensee would ensure that an equivalent amount, that is, the total amount directed to this initiative for all Corus stations involved, is directed to an eligible CCD initiative, as set out in paragraph 108 of Broadcasting Public Notice 2006-158. In this regard, Corus stated that it would re-spend the amount of \$20,168 before 31 August 2010.

8. The Commission recognizes the value that Corus's choice of host would bring to a program showcasing the music of new and independent Canadian music artists, for the above-mentioned reasons provided by the licensee. However, the Commission reminds Corus that CCD expenses are meant to be incremental to regular operational and programming costs. In the case of *The Strombo Show*, the Commission is not convinced that the expenses associated with the broadcast of this program are truly incremental. In particular, the Commission considers that the expenses associated with the broadcast of this type of programming are regular programming expenses incurred by many music-based stations. The Commission does not view this programming as a departure from what CFNY-FM has produced in the past.
9. Moreover, the Commission notes that Corus identified similar CCD expenses towards the same radio program for several of its other music-based stations, which suggests that such programming fits into Corus's regular programming strategy and expenses.

Conclusion

10. The Commission is satisfied with the measures outlined by Corus to ensure that, on a going forward basis, CFNY-FM is in compliance at all times with the Regulations and with its conditions of licence. However, the Commission notes that, in Broadcasting Decision 2006-394, it renewed the broadcasting licence for CFNY-FM for a short-term period of four years, due to the station's failure to comply with the Regulations as they relate to the broadcast of Canadian musical selections from content category 2 (Popular Music).
11. In Circular No. 444, which sets out the Commission's practices regarding non-compliance by radio licensees, the Commission notes that, when a station is found to be operating in non-compliance, it is normally granted a short-term licence renewal, generally for four years, to permit a review of its compliance within a reasonable period of time. However, the Commission considers that when non-compliance by a licensee is observed for a second time, and when the Commission is both satisfied with the measures that the licensee has put in place and confident that non-compliance will not likely reoccur, it normally grants the station a short-term renewal of two years.
12. Accordingly, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CFNY-FM Brampton from 1 September 2010 to 31 August 2012. This short-term renewal will enable the Commission to review, at an earlier date, the licensee's compliance with the Regulations and with its conditions of licence. The licence will be subject to the **conditions** set out in Broadcasting Regulatory Policy 2009-62.
13. The Commission **directs** Corus to spend, by no later than 60 days from the date of the present decision, \$20,168 on eligible CCD initiatives, as set out in paragraph 108 of Broadcasting Public Notice 2006-158.

Employment equity

14. Because the licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the department of Human Resources and Skills Development Canada, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2010-146, 12 March 2010, as amended by *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2010-146-1, 1 April 2010
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CFNY-FM Brampton – Licence renewal*, Broadcasting Decision CRTC 2006-394, 23 August 2006
- *Practices regarding radio non-compliance*, Circular No. 444, 7 May 2001

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