



Broadcasting Decision CRTC 2011-739

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Route reference: 2011-469

Ottawa, 30 November 2011

Corus Premium Television Ltd.
Winnipeg, Manitoba

Application 2011-0221-9, received 1 February 2011

CJGV-FM Winnipeg – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CJGV-FM Winnipeg from 1 December 2011 to 31 August 2016. This short-term licence renewal will allow for an earlier review of the licensee's compliance with its conditions of licence and the Radio Regulations, 1986.*

*The Commission **approves** the licensee's request to delete certain conditions of licence relating to its operation as a specialty format station.*

Introduction

1. The Commission received an application by Corus Premium Television Ltd. (Corus) to renew the broadcasting licence for the English-language commercial specialty radio programming undertaking CJGV-FM Winnipeg, which expires 30 November 2011.¹
2. In its application, the licensee requested to delete the following conditions of licence relating to the station's operation in a specialty format:
 - The station shall be operated within the Specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
 - A minimum of 70% of all musical selections broadcast during each broadcast week shall be devoted to selections drawn from subcategory 34 (Jazz and blues).
 - A minimum of 35% of all category 3 musical selections broadcast during each broadcast week shall be Canadian selections.

¹ The broadcasting licence for this undertaking was administratively renewed from 1 September 2011 to 31 October 2011 in Broadcasting Decision 2011-466 and from 1 November to 30 November 2011 in Broadcasting Decision 2011-665.

3. The licensee argued that while it has operated the station as a Smooth Jazz specialty station over the licence term, it has suffered significant financial losses. The licensee contends that the Smooth Jazz format is no longer viable in Winnipeg and proposed to provide a Mix Adult Contemporary format instead. The new format would feature a wide variety of today's pop and rock hits, mixed with songs from the 80s and 90s.
4. In its application, the licensee committed to maintaining some level of Smooth Jazz music to offer a sense of continuity for its current listeners.
5. In Broadcasting Notice of Consultation 2011-469, the Commission stated that the licensee may have failed to comply with its conditions of licence relating to Canadian talent development (CTD) and Canadian content development (CCD) contributions for the 2007-2008 and 2008-2009 broadcast years.
6. As part of this process, the Commission received and considered interventions in support of the application as well as an intervention in opposition from Dufferin Communications Inc. (Dufferin) and a comment from Bell Media Inc. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and decisions

7. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address relate to the following:
 - the deletion of certain conditions of licence; and
 - contributions to CTD and CCD.

Deletion of certain conditions of licence

8. With respect to the licensee's request to delete the conditions of licence relating to the station's operation under a specialty music format, the Commission evaluates such applications on a case-by-case basis. As a general rule, the Commission expects that applicants awarded licences in competitive situations maintain their commitments for at least the first term of their licence. The Commission notes that although Corus purchased the station in 2007, the station itself completed a full licence term under its specialty format.
9. The Commission notes that CJGV-FM has incurred significant losses over the last five years and that the station remains unprofitable despite significant cuts in expenses. The Commission considers that CJGV-FM's long-term viability will be challenged under its current Smooth Jazz specialty format.
10. In its intervention, Dufferin argued that a new mainstream station in the Winnipeg market would negatively impact its new station CFJL-FM Winnipeg. In this respect, the Commission notes that the Winnipeg radio market has experienced modest

growth in revenue at a compound annual growth rate of 2.3% from 2006 to 2010. Although revenue grew only moderately over this period, expenses remained flat, resulting in increasing profitability: from a profit before interest and tax margin of 15.8% in 2006 to a margin of 23.9% in 2010. The Commission considers that the natural growth in the Winnipeg market could potentially absorb the expected incremental growth in revenue that CJGV-FM would experience should the licence amendment be approved.

11. The Commission notes that approval of the proposed amendment would result in Corus obtaining a third mainstream format station in the Winnipeg market and in Corus further increasing its strong share of the market. However, the Commission considers that any impact from approving the amendment would be offset by the strength of the other major radio groups in the market and by the fact that CJGV-FM already operates in the market.
12. The Commission has approved similar applications by other stations that were operating in the Smooth Jazz specialty format, namely CHMC-FM Edmonton in Broadcasting Decision 2010-640 and CIQX-FM Calgary in Broadcasting Decision 2007-427.
13. In light of all of the above, the Commission is of the view that approval of the licence amendment is justified. The Commission notes the licensee's commitment to maintaining some level of Smooth Jazz music with the broadcast of a two-hour Smooth Jazz show.

Contributions to Canadian talent development and Canadian content development

14. The Commission notes that for the 2007-2008 and 2008-2009 broadcast years, the licensee had a shortfall in its CTD and CCD contributions.
15. Specifically, in a condition of licence set out Broadcasting Decision 2007-215-1, the licensee was required to allocate funds to specific initiatives. While Corus made the overall required total contributions, it varied the payments to certain initiatives. The Commission notes that it generally no longer issues conditions of licence requiring contributions to specific initiatives and that Corus met the overall financial contribution requirements of the condition of licence. As such, Corus is not required to make additional payments.
16. In addition, Corus was also required by condition of licence in 2008 and pursuant to the *Radio Regulations, 1986* (the Regulations) in 2009, to make payments in line with what is currently described in section 15 of the Regulations. The licensee failed to do so.
17. When notified of this non-compliance, Corus immediately made a payment to FACTOR in the amount of \$2,000, which covered the CCD shortfall. Corus indicated that the oversight was due to a misunderstanding of the transition rules applicable to CCD contributions.

Conclusion

18. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to dealing with radio stations found in non-compliance. The Commission noted in particular that each instance of non-compliance will be evaluated in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also noted that it will consider the circumstances leading to the non-compliance in question, the licensee's arguments, and the measures taken to rectify the situation.
19. The Commission also indicated that the possible sanctions include the following: short-term licence renewal, imposition of conditions of licence, mandatory orders, or the non-renewal or suspension of the licence.
20. However, in accordance with its revised practice regarding radio non-compliance set out in Broadcasting Information Bulletin 2011-347, the Commission considers that a short-term renewal period for CJGV-FM would be appropriate. Accordingly, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CJGV-FM Winnipeg from 1 December 2011 to 31 August 2016, five years from the original expiry date of 31 August 2011. This short-term licence renewal will allow for an earlier review of the licensee's compliance with its conditions of licence and the Regulations. In addition, the Commission **approves** the application by Corus Premium Television Ltd. to amend the broadcasting licence for the English-language commercial radio station CJGV-FM Winnipeg in order to delete the conditions of licence related to its operation as a specialty format station. The licence will be subject to the **conditions of licence** set out in the appendix to this decision.
21. Because this licensee is subject to the *Employment Equity Act* and files reports with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

Related documents

- *Administrative renewal*, Broadcasting Decision CRTC 2011-665, 25 October 2011
- *Notice of application received*, Broadcasting Notice of Consultation CRTC 2011-469, 3 August 2011
- *Administrative renewal*, Broadcasting Decision CRTC 2011-466, 3 August 2011
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *CHMC-FM Edmonton – Licence renewal and amendment*, Broadcasting Decision CRTC 2010-640, 31 August 2010

- *CIQX-FM Calgary - Licence amendment and renewal*, Broadcasting Decision CRTC 2007-427, 14 December 2007
- *Erratum*, Broadcasting Decision CRTC 2007-215-1, 24 July 2007
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

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

Appendix to Broadcasting Decision CRTC 2011-739

Term, conditions of licence and expectation

Term

The licence will be in effect from 1 December 2011 to 31 August 2016.

Conditions of licence

1. The licence will be subject to the conditions set out in *Conditions of licence for AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.

Expectation

The Commission expects the licensee to broadcast a two-hour specialty Smooth Jazz program each broadcast week.