



Broadcasting Decision CRTC 2013-161

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Route reference: 2012-677

Ottawa, 28 March 2013

Various licensees

Various locations

The application numbers are set out below.

Various radio programming undertakings (specialty and ethnic) – Licence renewals

The Commission renews the broadcasting licences for the specialty radio stations CFAQ-FM Blucher and CJOA-FM Thunder Bay, until 31 August 2018, and the broadcasting licence for the specialty radio station CJLU-FM Halifax and its transmitter CJLU-FM-1 Wolfville until 31 August 2017. These short-term renewals will allow for an earlier review of the licensees' compliance with their conditions of licence and the Radio Regulations, 1986.

The Commission renews the broadcasting licence for the ethnic radio station CHIN-FM Toronto until 31 August 2019.

Introduction

1. The Commission received applications to renew the broadcasting licences for the following radio programming undertakings, which expire 31 March 2013:¹

Licensee	Application and date received	Station
Bertor Communications Ltd. (Bertor)	2011-0079-2, received 19 January 2011	CFAQ-FM Blucher (specialty)
International Harvesters for Christ Evangelistic Association Inc. (IHC)	2011-0471-0, received 14 March 2011	CJLU-FM Halifax and its transmitter CJLU-FM-1 Wolfville (specialty)
Thunder Bay Christian Radio (TBC)	2011-0012-2, received 4 January 2011	CJOA-FM Thunder Bay (specialty)

¹ The original licence expiry date for these stations was 31 August 2011. The licences were administratively renewed until 31 March 2013 as a result of Broadcasting Decisions 2011-556, 2012-164 and 2012-456.

Radio 1540 Limited (Radio 1540)	2011-0168-3, received 28 January 2011	CHIN-FM Toronto (ethnic)
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2. The Commission received numerous interventions in support of the application for CHIN-FM. It did not receive any interventions in connection with the other applications.

Non-compliance

3. In Broadcasting Notice of Consultation 2012-677, the Commission highlighted the various areas with which the licensees appeared to be in non-compliance.

CFAQ-FM Blucher

4. In that notice of consultation, the Commission noted Bertor's apparent non-compliance with the following for CFAQ-FM:
 - A: the station's condition of licence relating to Canadian talent development (CTD) payments, for the 2005-2006 broadcast year;
 - B: section 15(2) of the *Radio Regulations, 1986* (the Regulations) relating to Canadian content development (CCD) payments, for the 2008-2009 and 2009-2010 broadcast years;
 - C: section 9(2) of the Regulations relating to the timely submission of annual reports, for the 2006-2007, 2007-2008 and 2009-2010 broadcast years; and
 - D: section 9(2) of the Regulations relating to the submission of complete annual returns, for the 2006-2007 through 2008-2009 broadcast years.
5. In regard to item A, the licensee did not make its required contribution of \$400 for the 2005-2006 broadcast year. In regard to item B, due to an oversight on its part, the licensee failed to direct any of its CCD payments to FACTOR, as required by section 15(2) of the Regulations, for the 2008-2009 and 2009-2010 broadcast years. However, following a Commission request, Bertor issued a cheque covering the CTD/CCD and FACTOR shortfalls and provided all supporting documentation. The Commission therefore concludes that the licensee has fulfilled its obligations relating to contributions to CTD/CCD.
6. In regard to items C and D, Bertor acknowledged its errors in the filing of annual returns and apologized for its misunderstanding of the requirements in this regard. The Commission notes, however, that radio licensees are required to file complete annual returns for a specific broadcast year on or before 30 November following the end of that broadcast year. For the 2006-2007 and 2009-2010 broadcast years, the annual returns for CFAQ-FM were filed less than three months after the 30 November deadline, and for the 2007-2008 broadcast year, the annual return was filed more than five months after that deadline. Furthermore, for those broadcast years, the licensee

did not provide proof of eligibility for certain CTD/CCD payments. However, following a Commission request, the licensee provided the missing proof of eligibility.

7. In light of the above, the Commission concludes that Bertor is in non-compliance with section 9(2) of the Regulations for the 2007-2008 broadcast year.

CJLU-FM Halifax and its transmitter CJLU-FM-1 Wolfville

8. In Broadcasting Notice of Consultation 2012-677, the Commission noted IHC's apparent non-compliance with the following for CJLU-FM:
 - A: the station's condition of licence relating to CTD/CCD payments, for the 2004-2005 through 2007-2008 broadcast years; and
 - C: section 9(2) of the Regulations relating to the timely submission of annual returns, for the 2004-2005 through 2007-2008 broadcast years.
9. In regard to item A, IHC indicated that it had made its required CTD/CCD payments. The Commission notes, however, that these payments were not made for the broadcast years in question. The Commission therefore considers that the licensee incurred a CTD/CCD payment shortfall of \$20,000 for those broadcast years.
10. The Commission further notes that for the following broadcast years, the licensee made the following CCD payments: 2008-2009: \$750; 2009-2010: \$7,656; and 2010-2011: \$1,550, for a total of \$9,956. In addition, beginning in the 2008-2009 broadcast year, IHC, as a not-for-profit organization, was exempt from the requirement to make CCD payments pursuant to section 15 of the Regulations. The Commission notes that CJLU-FM remains exempt from these requirements going forward.
11. The Commission therefore considers that it would be appropriate to allow IHC to apply the CCD payments made for the 2008-2009 through 2010-2011 broadcast years to the CTD/CCD shortfall incurred for the 2004-2005 through 2007-2008 broadcast years.
12. In light of the above, the Commission concludes that IHC is in non-compliance with its condition of licence relating to CTD/CCD payments, for the 2004-2005 through 2007-2008 broadcast years, and has an outstanding CTD/CCD shortfall of \$10,044. Accordingly, the Commission directs IHC to make up that shortfall and provide proof of payment to the Commission by no later than **24 September 2013**. A **condition of licence** to that effect is set out in Appendix 2 to this decision.
13. In regard to item C, CJLU-FM's annual returns for the 2004-2005 through 2006-2007 broadcast years were filed less than three months after the 30 November deadline, and the annual return for the 2007-2008 broadcast year was filed seven months after that deadline. The licensee explained that its bookkeepers missed the deadline for annual

returns. It further indicated that it has since outsourced its bookkeeping to a qualified bookkeeper.

14. In light of the above, the Commission concludes that IHC is in non-compliance with section 9(2) of the Regulations for the 2007-2008 broadcast year.

CJOA-FM Thunder Bay

15. In Broadcasting Notice of Consultation 2012-677, the Commission noted TBC's apparent non-compliance with the following for CJOA-FM:

- A: the station's condition of licence relating to CTD/CCD payments, for the 2004-2005, 2006-2007, 2008-2009 and 2009-2010 broadcast years;
- C: section 9(2) of the Regulations relating to the timely submission of annual returns, for the 2004-2005, 2005-2006, and 2007-2008 through 2009-2010 broadcast years; and
- D: section 9(2) of the Regulations relating to the submission of complete annual returns, for the 2008-2009 and 2009-2010 broadcast years.

16. In regard to item A, CJOA-FM incurred CTD shortfalls of \$283.42 and \$100 for the 2004-2005 and 2006-2007 broadcast years, respectively, and did not provide proof and eligibility of CCD payments of \$1,500 for each of the 2008-2009 and 2009-2010 broadcast years. Despite a Commission request on 23 October 2012, the licensee did not submit CCD financial statements and did not provide proof of payment.

17. The Commission notes, however, that over-expenditures totalling \$621.91 made in subsequent broadcast years were sufficient to cover the shortfalls incurred for the 2004-2005 and 2006-2007 broadcast years, as well as a portion of the missing payments for the 2008-2009 and 2009-2010 broadcast years. Nevertheless, the Commission concludes that TBC is in non-compliance with its condition of licence relating to CTD/CCD payments, for the 2008-2009 and 2009-2010 broadcast years, and has an outstanding CTD/CCD shortfall of \$2,761.51 for those broadcast years. Accordingly, the Commission directs TBC to either provide the Commission with CCD financial statements and proof of CCD payments for the 2008-2009 and 2009-2010 broadcast years, or make up the above-noted shortfall, by no later than **24 September 2013**. A **condition of licence** to that effect is set out in Appendix 3 to this decision.

18. In regard to items C and D, TBC not only filed its annual returns late, but, as noted above, did not submit CCD financial statements with those annual returns. The licensee indicated that the late annual returns were due to the fact that CJOA-FM's fiscal year does not coincide with the broadcast year, and that it intends to align its fiscal year with the broadcast year in order to avoid future non-compliance.

19. In light of the above, the Commission concludes that TBC is in non-compliance with section 9(2) of the Regulations for the 2008-2009 and 2009-2010 broadcast years.

CHIN-FM Toronto

20. In Broadcasting Notice of Consultation 2012-677, the Commission noted Radio 1540's apparent non-compliance with the following for CHIN-FM:

- B: section 15(2) of the Regulations relating to CCD payments, for the 2009-2010 broadcast year; and
- D: section 9(2) of the Regulations relating to the submission of complete annual returns, for the 2009-2010 broadcast year.

21. In regard to item B, CHIN-FM was required to make a contribution of \$9,296 to CCD initiatives, but had an apparent shortfall of \$1,096. In response to a Commission letter dated 18 October 2012, the licensee indicated that the shortfall amount of \$1,096 was inadvertently claimed by another of its stations, after which the full amount was redirected to CHIN-FM. The Commission notes that the shortfall was the result of an administrative error on the part of Radio 1540, and that once informed of the shortfall, the licensee corrected the error. Accordingly, the Commission concludes that the licensee has met the requirements of section 15(2) of the Regulations.

22. In regard to item D, the Commission considers that in light of the clarifications relating to the station's 2009-2010 CCD requirements, the annual return for that same broadcast year is now complete. Accordingly, the Commission concludes that Radio 1540 is now in compliance with section 9(2) of the Regulations.

Regulatory measures

23. 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.

24. In addition to the public record for each application, the Commission has taken into account the factors elaborated in the above-noted information bulletin. Given the circumstances surrounding Radio 1540's apparent non-compliance for CHIN-FM, the Commission considers it appropriate to grant a full-term renewal to CHIN-FM.

25. In regard to CFAQ-FM, CJLU-FM and CJOA-FM, the Commission notes each station's non-compliance relating to CTD/CCD contributions, as well as the CTD/CCD contribution shortfalls incurred by CJLU-FM and CJOA-FM. As set out in Broadcasting Public Notice 2006-158, initiatives relating to the development of Canadian content and talent will not only help to develop and advance the careers of

emerging Canadian artists but will increase the supply of high-quality Canadian music in a variety of genres and the demand for Canadian music by listeners. Accordingly, it is important that radio licensees make their required contributions to the development of Canadian content and talent.

26. Further, the Commission notes that compliance with deadlines for the filing of complete annual returns is important because it enables the Commission to monitor a licensee's performance and compliance with regulations and requirements. Accordingly, it considers that annual returns that are incomplete and/or filed late to be a serious matter.
27. The Commission therefore considers that the appropriate measure is a short-term renewal for each of these three stations, the length of which reflects the nature and extent of the non-compliance.

Conclusion

28. In light of all of the above, the Commission **renews** the broadcasting licences for the radio stations that are the subject of this decision until the expiry dates set out below:

Station	Expiry date
CFAQ-FM Blucher	31 August 2018
CJLU-FM Halifax and its transmitter CJLU-FM-1 Wolfville	31 August 2017
CJOA-FM Thunder Bay	31 August 2018
CHIN-FM Toronto	31 August 2019

29. The licences will be subject to the **conditions of licence** set out in the appropriate appendices to this decision.
30. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory requirements. The short-term renewals granted in this decision will allow for an earlier review of the affected licensees' compliance with their conditions of licence and regulatory requirements.
31. The Commission reminds licensees that they must fulfill all of their remaining contributions to CTD, CCD and any outstanding tangible benefits as set out in prior Commission decisions.

Secretary General

Related documents

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2012-677, 21 December 2012

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2012-456, 28 August 2012
- *Administrative renewals*, Broadcasting Decision CRTC 2012-164, 20 March 2012
- *Administrative renewals*, Broadcasting Decision CRTC 2011-556, 31 August 2011, as corrected by Broadcasting Decisions 2011-556-1, 23 September 2011, 2011-556-2, 16 December 2011, and 2011-556-3, 5 April 2012
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

**This decision and the appropriate appendix are to be appended to each licence.*

Appendix 1 to Broadcasting Decision CRTC 2013-161

Term, conditions of licence and encouragement for the commercial specialty radio programming undertaking CFAQ-FM Blucher, Saskatchewan

Term

The licence will expire 31 August 2018.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. 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, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time by the Commission.
3. The licensee shall ensure that a minimum of 95% of all musical selections broadcast during each broadcast week are drawn from content subcategory 35 (Non-classic religious), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
4. Where the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming, as amended from time to time.

Encouragement

Employment equity

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.

Appendix 2 to Broadcasting Decision CRTC 2013-161

Term, conditions of licence and encouragement for the specialty radio programming undertaking CJLU-FM Halifax, Nova Scotia and its transmitter CJLU-FM-1 Wolfville

Term

The licence will expire 31 August 2017.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. 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, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.
3. The licensee shall ensure that a minimum of 95% of all musical selections broadcast during each broadcast week are drawn from content subcategory 35 (Non-classic religious), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
4. The licensee shall, as an exception to the percentage of Canadian musical selections set out in section 2.2(3) of the *Radio Regulations, 1986*, during each broadcast week, devote 20% or more of its musical selections from content category 3 (Special Interest Music) to Canadian selections.
5. The licensee shall not broadcast any hit material as defined in *Policy regarding the broadcast of hits by English-language FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-61, 11 February 2009.
6. The licensee shall broadcast a minimum of 5 hours and 30 minutes of balance programs during each broadcast week.
7. The licensee shall adhere to the guidelines on ethics in religious programming as set out in section IV of *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, as amended from time to time.
8. The licensee shall pay \$10,044 relating to the shortfall incurred during the 2004-2005, 2005-2006, 2006-2007 and 2007-2008 broadcast years to an eligible Canadian content development initiative as specified in the eligibility criteria set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public

Notice CRTC 2006-158, 15 December 2006, and provide proof of payment of these contributions by no later than **24 September 2013**.

Encouragement

Employment equity

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.

Appendix 3 to Broadcasting Decision CRTC 2013-161

Term, conditions of licence and encouragement for the specialty radio programming undertaking CJOA-FM Thunder Bay, Ontario

Term

The licence will expire 31 August 2018.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. 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, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.
3. The licensee shall ensure that all of the programming broadcast on the station is locally produced.
4. The licensee shall not broadcast any commercial messages.
5. The licensee shall ensure that a minimum of 95% of all musical selections broadcast during each broadcast week are drawn from content subcategory 35 (Non-classic religious), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
6. The licensee shall ensure that, in each broadcast week, not less than 15% of all musical selections drawn from content category 3 (Special Interest Music) are Canadian musical selections broadcast in their entirety.
7. The licensee shall provide the Commission with the Canadian content development (CCD) financial statements and proof of its CCD contributions for the 2008-2009 and 2009-2010 broadcast years, or pay \$2,761.51 relating to the shortfall incurred in those broadcast years to an eligible Canadian content development initiative as specified in the eligibility criteria set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, and provide proof of payment of these contributions by no later than **24 September 2013**.

Encouragement

Employment equity

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.

Appendix 4 to Broadcasting Decision CRTC 2013-161

Term, conditions of licence and encouragement for the ethnic radio programming undertaking CHIN-FM Toronto, Ontario

Term

The licence will expire 31 August 2019.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. The licensee shall provide programming directed to a minimum of 23 cultural groups in a minimum of 20 different languages.

Encouragement

Employment equity

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.