



Broadcasting Decision CRTC 2006-394

Ottawa, 23 August 2006

Corus Radio Company
Brampton, Ontario

Application 2005-1379-8
Broadcasting Public Notice CRTC 2006-58
8 May 2006

CFNY-FM Brampton – Licence renewal

The Commission renews the broadcasting licence for the commercial radio station CFNY-FM Brampton, from 1 September 2006 to 31 August 2010. This short-term renewal will permit the Commission to review, at an early date, the licensee's compliance with the provisions of the Radio Regulations, 1986.

The application

1. The Commission received an application by Corus Radio Company (Corus) to renew the broadcasting licence for the commercial radio programming undertaking CFNY-FM Brampton. The licence expires 31 August 2006.

Non-compliance

2. The Commission analyzed the programming broadcast on CFNY-FM during the week of 11 to 17 January 2004. The analysis revealed that only 33.6% of all category 2 musical sections broadcast over the broadcast week, and only 33.8% of the category 2 musical selections broadcast by the licensee between 6:00 a.m. and 6:00 p.m., Monday to Friday of the same week, were Canadian musical selections. These findings constitute infractions of sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Radio Regulations), which stipulate that:

2.2(8) Except as otherwise provided under a licensee's condition of licence that refers expressly to this subsection and subject to subsection (6)¹, an A.M. or F.M. licensee licensed to operate a commercial station, community station or campus station shall, in a broadcast week, devote 35% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

¹ Section 2.2(6) of the Radio Regulations, 1986 permits a licensee to reduce the percentage of its Canadian musical selections from content category 2 if it devotes specific percentages of its musical selections in a broadcast week to instrumental selections.

2.2(9) Except as otherwise provided under a licensee's condition of licence, and subject to subsection (6), an A.M. or F.M. licensee licensed to operate a commercial station shall, between 6:00 a.m. and 6:00 p.m., in any period beginning on Monday of a week and ending on Friday of the same week, devote 35% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

3. The licensee acknowledged its non-compliance with sections 2.2(8) and 2.2(9) of the Radio Regulations. Corus further indicated that it had implemented a number of measures to prevent a further occurrence of non-compliance with the Radio Regulations.
4. In Broadcasting Public Notice CRTC 2006-58, 8 May 2006, the Commission indicated that it would review the licence renewal application for CFNY-FM Brampton, and noted the apparent failure of the licensee to comply with the Radio Regulations concerning the broadcast of Canadian music from category 2 for the week of 11 to 17 January 2004 over both the broadcast week, and between 6 a.m. and 6 p.m., Monday through Friday.

Interventions

5. An intervention in opposition to this application was submitted by Mr. Glenn Talsky, and the Canadian Independent Record Production Association (CIRPA) submitted an intervention offering general comments.
6. Mr. Talsky expressed concern with the manner in which CFNY-FM promotes musical groups, and alleged that Corus chose music selections based on "payola" rather than artistic merit.
7. CIRPA expressed concern with the licensee's failure to broadcast the minimum Category 2 Canadian content level, and stated that it was unacceptable for a standard-bearer in the industry to fall short of its mandated Canadian content minimum. CIRPA further expressed approval of the measures Corus had implemented to prevent another occurrence of non-compliance.

Licensee's reply

8. Corus filed one reply to both interventions. It indicated that the non-compliance with the Radio Regulations was an unusual occurrence, that it has an internal commitment to maintain a minimum level of 36% Canadian content, and regularly broadcasts levels of Canadian content that are even higher.
9. The licensee vehemently rejected Mr. Talsky's comments relating to alleged "payola", adding that such allegations were completely false and without merit. Corus indicated that it conducts all of its businesses under a strict Code of Business Conduct which applies to all employees of the company. Further, Corus stated that CFNY-FM selects its music for airplay based on artistic merit, taking into account the tastes of its listeners, on-air hosts and program director.

Commission's analysis and determinations

10. The Commission notes that a number of complaints were made during the current licence term, relating mostly to coarse or offensive comments made on The Dean Blundell Show. The Commission also notes that these complaints have been dealt with by the Canadian Broadcast Standards Council (CBSC), a self-regulating council for private broadcasters.
11. In assessing complaints, the CBSC assesses the relevance of the Canadian Association of Broadcasters' (CAB) Code of Ethics to the complaint, as well as the responsiveness of the broadcaster to the substance of the complaint. In some cases dealt with by the CBSC, CFNY-FM was required to announce the CBSC's decision on air during the program in question, to provide written confirmation of those announcements to the complainants and the CBSC, as well as to provide to the CBSC copies of the broadcasts containing the announcements.
12. While the Commission is satisfied with the manner in which the complaints have been dealt with over the current licence term, it reminds Corus that, as a leading radio broadcaster, it must provide quality programming at all times.
13. With respect to the non-compliance with sections 2.2(8) and 2.2(9) of the Radio Regulations, the Commission notes that the licensee has confirmed that it has already taken all measures required to remedy its non-compliance. The Commission reminds the licensee that it must comply with the provisions of the Radio Regulations at all times.
14. In *Practices regarding radio non-compliance*, Circular No. 444, 7 May 2001, the Commission clarified its approach relating to radio stations operating in non-compliance.
15. Based on its review of this licence renewal application and the licensee's past performance, and given that this is the licensee's first infraction with respect to Canadian content and that the Commission is satisfied with the measures taken to comply with regulatory requirements, the Commission **renews** the broadcasting licence for the commercial radio programming undertaking CFNY-FM Brampton, from 1 September 2006 to 31 August 2010. This short term will enable the Commission to assess at an early date the licensee's compliance with the Radio Regulations.
16. 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.
17. The licensee is authorized to use a Subsidiary Communications Multiplex Operations (SCMO) channel for the purpose of broadcasting a predominantly Russian-language radio service. The licensee is also authorized to use an SCMO channel for the purpose of broadcasting an Urdu-, Hindi-, Punjabi- and English-language radio service. The Commission reminds the licensee that, as stated in section 3(1)(h) of the *Broadcasting Act*, it is responsible for the programs that it broadcasts. The licensee is therefore expected to ensure that its SCMO services are operated in a responsible manner and to

adhere to the guidelines regarding the provision of SCMO services set out in Appendix A to *Services using the vertical blanking interval (television) or subsidiary communications multiplex operation (FM) channel*, Public Notice CRTC 1989-23, 23 March 1989.

Employment equity

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

Secretary General

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>