



Broadcasting Decision CRTC 2008-149

Ottawa, 28 July 2008

Arctic Radio (1982) Limited

Flin Flon, Manitoba

Application 2008-0142-4, received 25 January 2008

Public Hearing at Winnipeg, Manitoba

3 June 2008

CFAR Flin Flon – Licence renewal

The Commission renews the broadcasting licence for the commercial radio programming undertaking CFAR Flin Flon, from 1 September 2008 to 31 August 2010. This short term renewal will allow the Commission to assess, at an earlier date, the licensee's compliance with the Radio Regulations, 1986, particularly with respect to the broadcast of Canadian category 2 musical selections, and with its conditions of licence, particularly with respect to the broadcast of Cree-language programming.

Introduction

1. At a public hearing commencing 3 June 2008 in Winnipeg, Manitoba, the Commission considered an application by Arctic Radio (1982) Limited (Arctic) to renew the broadcasting licence for the commercial radio programming undertaking CFAR Flin Flon. The current licence expires 31 August 2008.
2. In Broadcasting Notice of Public Hearing 2008-3, the Commission noted that, during the week of 5 to 11 November 2006, CFAR may have failed to comply with the requirements of the *Radio Regulations, 1986* (the Regulations) relating to the broadcast of Canadian content for category 2 (Popular music) selections and with its condition of licence to broadcast a minimum of two hours of Cree-language programming weekly. Furthermore, the Commission noted that it expected the licensee to show cause at the hearing why a mandatory order should not be issued requiring the licensee to comply with the Regulations and its conditions of licence.
3. The Commission did not receive any interventions in connection with this application.

Non-compliance

Canadian content of category 2 music

4. The Commission's analysed the programming broadcast by CFAR during the week of 5 to 11 November 2006. The analysis revealed that only 34.4% of all category 2 musical selections broadcast over the broadcast week were Canadian. These findings constitute a violation of section 2.2(8) of the Regulations, which stipulates that:

Except as otherwise provided under a licensee's condition of licence that refers expressly to this subsection and subject to subsection (6), 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.

5. In a letter dated 27 May 2007, the licensee stated that the shortfall in Canadian content of category 2 music was due to a lack of adjustment in Canadian content during syndicated programming.

Cree-language programming

6. In the same analysis of the programming broadcast by CFAR during the week of 5 to 11 November 2006, the Commission was not able to locate the half-hour weekday Cree-language program *Tribal Waves* on the off-air logger tapes. This constitutes a violation of CFAR's condition of licence set out in Broadcasting Decision 2004-334 stipulating that the station broadcast a minimum of two hours of Cree-language programming in each broadcast week.
7. In a letter dated 27 May 2007, the licensee stated that switching of shifts among staff caused the non-compliance in the broadcast of Cree-language programming during the week of 5 to 11 November 2006.

Measures taken by licensee to ensure compliance

8. At the public hearing, Mr. Tom O'Brien, President of Arctic, took full responsibility for the non-compliance. He acknowledged that he had not implemented proper procedures to ensure that the station operated in compliance and explained that, in the past, he was the only person available to replace absent on-air or sales staff.
9. Mr. O'Brien described the various measures undertaken by the station in order to ensure full compliance in the future. These include hiring a management consulting firm to assist CFAR in establishing an appropriate organizational structure to improve management of human resources and facilitate a better performance on the part of the station. The licensee also initiated a process to hire a program director and music director. The program director will be responsible for daily monitoring of Canadian content levels and for ensuring compliance with all of CFAR's conditions of licence. Among other things, the music director will also be responsible for monitoring the level of Canadian content.

10. With respect to Canadian content levels specifically, the licensee affirmed that, since January 2007, it has programmed additional Canadian category 2 musical selections throughout each broadcast day, particularly on Sundays. The licensee indicated that, in the new licence term, it would continue to exceed the minimum Canadian content requirements for category 2 music aiming to achieve a weekly level of 38%. The licensee explained that broadcasting a higher level of Canadian content would ensure compliance with its minimum regulatory requirements in the event of errors such as mislabelling of selections.
11. The licensee also made a commitment to implement a weekly log to be completed by staff in order to provide quick and comprehensive calculations of Canadian content levels. It indicated that it is currently upgrading its automation software to facilitate music scheduling and reconciliation of reports as well to ensure the broadcast of the required percentage of Canadian selections. The licensee anticipates that the upgrade will be completed by August 2009.
12. With respect to Cree-language programming specifically, the licensee stated that it has expanded its pool of Cree-language speakers who are interested in working at CFAR thereby increasing the potential availability of replacements for absent Cree-speaking staff. The licensee explained that it now has the capability for recording the Cree-language program and broadcasting it on air if the presenter is not available at the scheduled air-time. In addition, the licensee has assigned a producer the responsibility of monitoring Cree-language content and reporting the findings to senior management weekly. The licensee made a commitment that CFAR will always broadcast some programming in an Aboriginal language.

Commission's analysis and determinations

13. The Commission notes that, following a breach of the Regulations with respect to the broadcast of Canadian content category 2 musical selections and its condition of licence to broadcast a minimum of two hours of Cree-language programming weekly at the time of its last licence renewal, CFAR was granted a four-year licence renewal, from 1 September 2004 to 31 August 2008 in Broadcasting Decision 2004-334. The Commission monitored CFAR's programming during its new licence term, and once again found the station in non-compliance with the same provisions of the Regulations and the same condition of licence.
14. The Commission recognizes that CFAR faces significant challenges in terms of management and human resources. The Commission acknowledges the particular challenge of finding and retaining Cree-language speakers for CFAR. The Commission encourages the licensee to foster a positive work environment that will attract Cree-language speakers and elicit their collaboration.

15. The Commission, nonetheless, notes that many other commercial stations operate under the similar terms and conditions and remain in compliance with the Regulations and their various conditions of licence. The Commission is satisfied with the commitments and measures outlined by CFAR to ensure its compliance with its regulatory requirements at all times. The Commission is therefore of the view that a mandatory order is not necessary at this time.
16. As set out in Circular No. 444, the Commission notes that, when non-compliance is observed for a second time, and the Commission is satisfied with the measures that the licensee has put into place and confident that non-compliance will not likely reoccur, the station is normally granted a two-year licence renewal. As noted above, this is the second time that CFAR has been found to be in non-compliance with the Regulations with respect to the broadcast of Canadian category 2 musical selections and with its condition of licence with respect to the broadcast of Cree-language programming. As such, the Commission finds it appropriate to renew the licence for CFAR for a period of two 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 and its conditions of licence.
17. Accordingly, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CFAR Flin Flon, from 1 September 2008 to 31 August 2010. The licence will be subject to the terms and **conditions** set out in appendix to this decision.
18. As of 1 September 2008, the licensee will be required to adhere to the requirements relating to contributions to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, as amended by *Regulations Amending the Radio Regulations, 1986*, SOR/2008-177, 28 May 2008, announced in Broadcasting Public Notice 2008-67, 23 July 2008.

Secretary General

Related documents

- Amendments to the Radio Regulations, 1986 – Implementation of the Commercial Radio Policy 2006 and the Digital Radio Policy, Broadcasting Public Notice CRTC 2008-67, 23 July 2008
- Broadcasting Notice of Public Hearing CRTC 2008-3, 3 April 2008
- *CFAR Flin Flon - Licence renewal*, Broadcasting Decision CRTC 2004-334, 11 August 2004
- *Commercial Radio Policy 2006*, 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

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 2008-149

Terms, conditions of licence and encouragement

Terms

The licence will expire 31 August 2010.

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 conditions of licence number 1 and 5.
2. In each broadcast week, the licensee shall broadcast a minimum of two hours of programming in the Cree language.
3. The licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee remains a member in good standing of the Canadian Broadcast Standards Council.

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.