



Broadcasting Decision CRTC 2013-164

PDF version

Route reference: 2012-457

Ottawa, 28 March 2013

I.T. Productions Ltd.

Vancouver, British Columbia

Application 2011-0289-7, received 31 January 2011

CJRJ Vancouver – Licence renewal

*The Commission **renews** the broadcasting licence for the commercial AM ethnic radio station CJRJ Vancouver from 1 April 2013 to 31 August 2017. This short-term renewal will allow the Commission to review the licensee's compliance with its conditions of licence and the Radio Regulations, 1986 (the Regulations) at an earlier date.*

Further, the Commission replaces the licensee's current condition of licence relating to Canadian content development (CCD) contributions with a condition of licence requiring the licensee to contribute \$350,000 to CCD by the end of the licence term. The licensee will, however, be exempt from the basic CCD contribution required under section 15 of the Regulations.

Introduction

1. I.T. Productions Ltd. (I.T.) filed an application to renew the broadcasting licence for the commercial AM ethnic radio station CJRJ Vancouver, British Columbia, which expires 31 March 2013.¹ The Commission received interventions in support of this application.
2. As part of its application, the licensee proposed to delete its condition of licence 6 dealing with Canadian talent development (CTD), as set out in Broadcasting Decision 2005-338, in which the Commission originally approved the licensee's application for a new radio station.
3. In Broadcasting Notice of Consultation 2012-457, the Commission indicated that it would review the licensee's compliance with the *Radio Regulations, 1986* (the Regulations) and its conditions of licence, as indicated in the Commission's clarification letters, which are part of the public file for this proceeding. The Commission also announced that it may also consider the use of regulatory measures

¹ The original licence expiry date for this station was 31 August 2011. The broadcasting licence was administratively renewed from 1 September 2011 to 31 March 2013 as a result of Broadcasting Decisions 2011-556, 2012-164 and 2012-456.

such as a short-term renewal, in accordance with Broadcasting Information Bulletin 2011-347.

Commission's analysis and decisions

4. After examining the application in light of applicable regulations and policies, the Commission considers that the issues to be addressed are the following:
 - compliance and proposals relating to CTD contributions
 - compliance with section 9(2) of the Regulations, relating to the filing of annual returns.

Compliance and proposals relating to Canadian talent development contributions

5. The current CTD condition of licence for CJRJ is as follows:

The licensee shall make direct annual expenditures of at least \$60,000 in each of the first five years of operation, and at least \$110,000 in each of years six and seven, on the development and promotion of Canadian talent. These amounts shall be distributed as follows:

- annual scholarships for students of the Natraj School of Dancing and the Shaimak Davar School of Dancing – \$5,000 each, for a total of \$10,000 per year;
 - annual scholarships for students enrolled in the broadcasting or journalism programs of the British Columbia Institute of Technology, Simon Fraser University and the University of British Columbia – \$10,000 each, for a total of \$30,000 per year;
 - contribution to the Canadian Association of Ethnic Broadcasters for the maintenance of its catalogue of Canadian ethnic recordings – \$5,000 per year;
 - sponsorship of an annual poetry writing and reading contest – \$15,000 per year; and
 - sponsorship of a talent search contest – \$50,000 in each of the sixth and seventh years of operation.
6. In Broadcasting Public Notice 2006-158, the Commission replaced the expression “Canadian talent development” with “Canadian content development” (CCD) and set out a list of eligible CCD initiatives. The CCD regime was later put into effect through a series of changes to the Regulations. For the upcoming licence term, the licensee proposed to delete the above-noted condition of licence and suggested the two following alternatives to replace it:

- to contribute to CCD as set out in section 15 of the Regulations under a short-term licence renewal; or
 - to contribute \$30,000 per broadcast year to CCD under a full-term licence renewal.
7. The licensee did not fulfill its CTD commitments set out in its current condition of licence during the past licence term. It explained that its revenues had been substantially less than were projected. As a result, the licensee submitted that it did not have enough money to fulfil its CTD obligations and still meet its fixed costs such as payroll and operational expenses. I.T. further submitted that it made its CTD commitment anticipating that it would be the only the radio licensee serving Vancouver's South Asian and other ethnic communities. However, Vancouver is also served by a local FM ethnic radio station licensed at the same time as CJRJ. The Vancouver market also receives the signals of U.S. stations that target a South Asian audience.
 8. CJRJ began operations on 25 November 2006. The Commission notes that the licensee made in-kind contributions to CTD, such as the exchange of services or the gift of air-time for promotional purposes, which are ineligible CTD contributions. The total shortfall in CTD commitments over the first licence term is \$225,000. This includes the pro-rated payment required for the first year of operations, which amounted to \$45,000, given the date on which CJRJ commenced operations. For each of the broadcast years from 2007-2008 to 2009-2010, the licensee was required to contribute \$60,000.²
 9. In addition, the licensee must contribute \$125,000 in 2012-2013 – which includes \$15,000 to make up the remainder of the pro-rated shortfall for its first year of operations and the \$110,000 payment required by its condition of licence. As a result, the licensee's total remaining obligation with respect to CCD totals \$350,000.
 10. As a general rule, the Commission does not approve requests for licence amendments by licensees who fail to comply with their obligations. In addition, the Commission notes that I.T. received its licence in a competitive process and that its CTD plan was an important element that led the Commission to approve the application. The Commission therefore considers that I.T. must fulfill the remainder of its CTD commitment under its current condition of licence as set out above.
 11. However, the Commission notes that CJRJ is experiencing severe financial difficulties due to its unique operating circumstances. CJRJ is a stand-alone AM service in a highly competitive ethnic radio market in Vancouver, where ethnic stations not only compete directly with other Canadian ethnic services but also face the added difficulty of competing with programming being offered by American

² Since that licence has been renewed administratively since 31 August 2011, the Commission did not monitor CCD contributions for the 2010-2011 and 2011-2012 broadcast years.

stations located near the border. The Commission notes that CJRJ's revenues have not met the projections as set out in its original application and that the station has been operating primarily at a loss since it commenced operations.

12. The Commission takes seriously the commitments made at the time of licensing new stations and, as such, considers that CJRJ must fulfill its original commitments to CTD. Nevertheless, the Commission recognizes the unique circumstances under which CJRJ operates and is of the view that granting the licensee the ability to distribute the remaining contributions over the course of the next licence term is appropriate in the circumstances.
13. Accordingly, the Commission is imposing a **condition of licence**, set out in the appendix to this decision, which requires I.T. to spend \$350,000 on eligible CCD initiatives by the end of the licence term. The licensee is required to expend these amounts in equal installments each broadcast year for the rest of the licence term, as indicated in the condition of licence.
14. To provide the licensee with additional flexibility and given its severe financial difficulties, the Commission deems it appropriate to exempt I.T., by **condition of licence**, from the basic annual CCD contribution required under section 15 of the Regulations for this licence term.

Compliance with section 9(2) of the *Radio Regulations, 1986*, relating to the filing of annual returns

15. Pursuant to section 9(2) of the Regulations, licensees must file, by no later than 30 November of each year, their annual returns for the broadcast year ending the previous 31 August. Failure to file these returns, as well as all supporting documentation for contributions to CCD by the required date, may result in a non-compliance.
16. I.T. filed its annual return for the 2009-2010 broadcast year on 26 April 2011. Accordingly, the Commission finds that the licensee was in non-compliance with section 9(2) of the Regulations.

Conclusion

17. 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.
18. In light of the nature of the non-compliance discussed above, the Commission **renews** the broadcasting licence for the commercial AM ethnic radio programming undertaking CJRJ Vancouver, British Columbia, from 1 April 2013 to 31 August

2017. This short-term renewal will allow for an earlier review of the licensee's compliance with its conditions of licence and the Regulations. The term and **conditions of licence** are set out in the appendix to this decision.

Secretary General

Related documents

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2012-678, 13 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 CRTC 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
- *Clarifications regarding Canadian content development contributions made by commercial radio stations*, Broadcasting Information Bulletin CRTC 2009-251, 5 May 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Ethnic AM radio station in Vancouver*, Broadcasting Decision CRTC 2005-338, 21 July 2005

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

Appendix to Broadcasting Decision CRTC 2013-164

Terms, conditions of licence and encouragement for the commercial AM ethnic radio programming undertaking CJRJ Vancouver, British Columbia

Terms

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, in each broadcast week, direct programming to a minimum of 11 cultural groups in a minimum of 17 different languages.
3. All programming in each broadcast week shall be ethnic programming, and not less than 95% of the programming in each broadcast week shall be third language programming.
4. Not less than 73% of the ethnic programming in each broadcast week shall be in the Hindustani and Punjabi languages.
5. None of the programming broadcast by the licensee shall be in a Chinese language.
6. By the end of each broadcast year commencing with the 2012-2013 broadcast year, the licensee shall contribute \$70,000 for a total of \$350,000 by the end of the licence term to 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.
7. The licensee is exempt from the provisions of section 15 of the *Radio Regulations, 1986*.

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.