



Broadcasting Decision CRTC 2013-700

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Route reference: 2013-315

Ottawa, 16 December 2013

CFPV-FM Radio Ltd.
Pemberton, British Columbia

Application 2013-0226-5, received 25 January 2013

CFPV-FM Pemberton – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CFPV-FM Pemberton, British Columbia, from 1 January 2014 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 Radio Regulations, 1986.*

Introduction

1. CFPV-FM Radio Ltd. (CFPV-FM Radio) filed an application to renew the broadcasting licence for the English-language commercial radio station CFPV-FM Pemberton, British Columbia, which expires 31 December 2013.¹
2. The Commission received an intervention commenting on the application on behalf of the Province of British Columbia relating to the participation of CFPV-FM in the National Public Alerting System (NPAS). The public record for this application can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
3. As specified in its three-year plan, the Commission will be looking at measures to ensure the participation of Canadian broadcasters and telecommunications service providers in the NPAS. Therefore, the Commission will not impose conditions of licence requiring the participation of broadcasters in the NPAS at this time. However, the Commission expects all licensees to voluntarily participate in the NPAS so that Canadians receive timely warnings of imminent perils.

Non-compliance

4. In Broadcasting Notice of Consultation 2013-315, the Commission noted that the licensee was in apparent non-compliance with its condition of licence relating to Canadian talent development (CTD) contributions for the 2007-2008 to 2011-2012

¹ The original expiry date of the broadcasting licence for the station was 31 August 2013. This licence was administratively renewed until 31 December 2013 in Broadcasting Decision 2013-418.

broadcast years and with section 9(2) of the *Radio Regulations, 1986* (the Regulations) relating to the filing of complete annual returns for the 2010-2011 broadcast year.

Canadian talent development

5. In Broadcasting Decision 2006-643, the Commission indicated that the licensee's overall commitment to CTD would be \$2,400 in each broadcast year of its licence term. Specifically, in addition to the Canadian Association of Broadcasters' yearly \$400 CTD requirement, the Commission imposed a condition of licence requiring that the licensee devote \$2,000 each broadcast year to local CTD initiatives, including payments to local musical talent for public performances, the recording of live concerts featuring Canadian talent, and to the local school district for a music scholarship.
6. The Commission notes that although the licensee claimed that it made contributions to Canadian content development (CCD)² in the 2008-2009 and 2009-2010 broadcast years, it did not provide the Commission with any proof that these payments were made. In addition, the licensee did not claim CCD payments in the 2007-2008, 2010-2011 and 2011-2012 broadcast years. The Commission notes that the licensee committed to expend the shortfalls and all outstanding amounts relating to its condition of licence by 31 July 2013. However, the licensee has only filed proof of payment totaling \$1,017. Therefore, the licensee's outstanding CCD shortfall is \$9,183.
7. The licensee explained that the Pemberton market is financially challenging and does not support the level of CCD contributions originally proposed at the time of licensing.
8. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence relating to CCD contributions for the 2007-2008 to 2011-2012 broadcast years.

Filing of annual returns

9. Section 9(2) of the Regulations requires licensees to file an annual return by 30 November of each year for the broadcast year ending the previous 31 August. The specific filing requirements, including the requirement to submit financial statements, are set out in Broadcasting Information Bulletin 2011-795. In the present case, the licensee did not file financial statements with the annual return for the 2010-2011 broadcast year.
10. The licensee claimed that the required financial statements were submitted, noting that it had difficulty with the log-out/time-out constrictions of the Access Key

² In Broadcasting Public Notice 2006-158, the Commission replaced the expression "Canadian talent development" with "Canadian content development".

System. It added that internet connections are not consistent across Canada and many locations are not as robust as those experienced in Canada's major social/political centres. The licensee has since filed the financial statements with the Commission.

11. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations relating to the filing of complete annual returns for the 2010-2011 broadcast year.

Regulatory measures

12. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to non-compliance by radio stations. Specifically, the Commission indicated that each instance of non-compliance would be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also indicated that it would consider the circumstances of the non-compliance, the arguments provided by the licensee and the measures taken to rectify the situation.
13. The Commission considers that initiatives relating to the development of Canadian content and talent not only help to develop and advance the careers of emerging Canadian artists but to 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.
14. The Commission also notes that timely compliance with reporting requirements is important because it allows the Commission to monitor licensee performance and compliance with its regulations and requirements, as well as to gather statistics for assessing the industry and preparing monitoring reports on which the industry relies. Accordingly, it considers annual returns that are incomplete and/or filed late to be a serious matter.
15. The Commission has reviewed the record for this application and reiterates that despite the licensee's commitment to pay the total shortfall of \$9,183 by 31 July 2013, the licensee has only filed proof of payment totaling \$1,017. In addition, at no time during its licence term did the licensee contact the Commission to obtain guidance on its best course of action given that the CCD payments were proving to be financially difficult to meet. Accordingly, the Commission directs the licensee to pay the outstanding balance and to provide proof of this payment by **17 March 2014**. A **condition of licence** to that effect is set out in the appendix to this decision.
16. The Commission therefore finds that the appropriate measure is a short-term renewal for CFPV-FM, the length of which reflects the nature and extent of the non-compliances.

Conclusion

17. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CFPV-FM Pemberton, British Columbia, from 1 January 2014 to 31 August 2017. The terms and **conditions of licence** are set out in the appendix to this decision.
18. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory requirements. The short-term renewal granted in this decision will allow for an earlier review of the licensee's compliance with its conditions of licence and the Regulations.
19. The Commission notes that on 1 January 2014, CFPV-FM's condition of licence relating to CTD will have lapsed and the licensee will be subject to section 15 of the Regulations.

Reminder

20. Pursuant to section 22 of the *Broadcasting Act*, the Commission reminds the licensee that the broadcasting licence will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Secretary General

Related documents

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2013-418, 19 August 2013
- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2013-315, 2 July 2013
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *English-language FM radio station in Pemberton*, Broadcasting Decision CRTC 2006-643, 27 November 2006

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

Appendix to Broadcasting Decision CRTC 2013-700

Terms, conditions of licence and encouragement for the English-language commercial radio programming undertaking CFPV-FM Pemberton, 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, as amended from time to time, with the exception of condition of licence 8, relating to single-station markets.
2. The licensee shall expend the Canadian talent development (CTD) shortfall totaling \$9,183 to fulfill its CTD commitments set out in *English-language FM radio station in Pemberton*, Broadcasting Decision CRTC 2006-643, 27 November 2006, and shall provide proof of this payment by **17 March 2014**.

Encouragement

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.