



Broadcasting Decision CRTC 2018-220

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Reference: Part 1 licence renewal applications posted on 23 February 2018

Ottawa, 29 June 2018

Newcap Inc.

Fredericton and Miramichi City, New Brunswick

Public record for these applications: 2017-0650-9 and 2017-0651-6

CIHI-FM Fredericton and CHHI-FM Miramichi City – Licence renewals

*The Commission **renews** the broadcasting licences for the English-language commercial FM radio stations CIHI-FM Fredericton and CHHI-FM Miramichi City from 1 September 2018 to 31 August 2025.*

Applications

1. Newcap Inc. (Newcap) filed applications (2017-0650-9 and 2017-0651-6) to renew the broadcasting licences for the English-language commercial FM radio stations CIHI-FM Fredericton and CHHI-FM Miramichi City, New Brunswick, which expire 31 August 2018. The Commission did not receive any interventions regarding these applications.

Non-compliance

2. Sections 8(1), 8(2) and 9(3)(b) of the *Radio Regulations, 1986* (the Regulations) set out requirements for radio station licensees to keep and file (upon request) program logs and music lists relating to the programming broadcast on a station. Complete and accurate program logs and music lists enable the Commission to verify compliance with regulatory requirements.

CIHI-FM

3. According to Commission records, Newcap submitted an incomplete and inaccurate music list for CIHI-FM for the broadcast week of 27 November to 3 December 2016. Specifically, the language of each musical selection broadcast was not identified in the music list.
4. Newcap explained that the missing information was due to a missing log parameter as it had assumed that because CIHI-FM is licensed to operate as an English-language station, it would only be required to include a language code if broadcasting a musical selection not in English. Newcap added that all station staff had since been informed

of the requirements and that log reporting parameters had been updated to include the language of each selection broadcast in music lists.

5. In light of the above, the Commission finds the licensee in non-compliance with section 9(3)(b) of the Regulations.

CHHI-FM

6. According to Commission records, Newcap also submitted an incomplete and inaccurate program log and music list for CHHI-FM for the same broadcast week. Specifically, several elements were referred to in cue sheets but were missing or not fully identified in the program log and music list. As a result, information required under sections 8(1), 8(2) and 9(3)(b) of the Regulations was not provided for certain programming segments.
7. Newcap explained that the missing and inconsistent information on the program log and music list was due to limitations with the station's programming and logging systems that prevented it from merging certain information. Consequently, cue sheets and placeholders were entered and submitted with the program list and music list in an attempt to clarify the discrepancies. Newcap added that all station staff had since been instructed to follow specific steps to ensure accurate reconciliation of information in program logs and music lists. It also stated that it would follow instructions received from Commission staff regarding the manual entry of missing and inconsistent information in its program logs and music lists.
8. In light of the above, the Commission finds the licensee in non-compliance with sections 8(1), 8(2) and 9(3)(b) of the Regulations.

Regulatory measures

9. The Commission's approach to non-compliance by radio stations is set out in *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014. Under that approach, each instance of non-compliance is evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The circumstances leading to the non-compliance, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
10. In this case, the licensee has acknowledged the non-compliance, demonstrated an understanding of the regulatory obligation and has taken appropriate corrective action to address the issue. As such, the Commission is satisfied with the licensee's response and is confident that the licensee will be able to operate the station in compliance with its regulatory obligations going forward.
11. Accordingly, the Commission does not consider it necessary to impose any remedial measures.

Conclusion

12. In light of all the above, the Commission **renews** the broadcasting licences for the English-language commercial FM radio programming undertakings CIHI-FM Fredericton and CHHI-FM Miramichi City from 1 September 2018 to 31 August 2025. The terms and **conditions of licence** for these stations are set out in Appendix 1 and 2 of this decision respectively.

Reminders

13. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. The submission of complete and accurate radio monitoring materials enables the Commission to conduct an analysis of a station's programming to verify compliance with regulatory obligations. The retention of these radio monitoring materials makes it possible for the Commission to investigate a station's programming in the case of complaints. As such, any licensee that does not file requested material in a timely and complete manner or does not file such material at all affects the ability of the Commission to adequately perform its duty to independently confirm the licensee's adherence to regulatory and licence requirements. These filings also become important indicators of whether the licensee has the willingness, ability and knowledge necessary to bring itself into compliance and maintain such compliance.
14. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licences renewed in this decision will cease to have any force or effect should the broadcasting certificates issued by the Department of Industry lapse.

Employment equity

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

Secretary General

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

Appendix 1 to Broadcasting Decision CRTC 2018-220

Terms, conditions of licence and expectation for the English-language commercial FM radio programming undertaking CIHI-FM Fredericton

Terms

The licence will expire 31 August 2025.

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as well as the conditions set out in the licence for the undertaking.
2. As an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), the licensee shall devote at least 40% of its musical selections from content category 2 (Popular Music) in each broadcast week and between 6 a.m. and 6 p.m. from Monday to Friday to Canadian selections broadcast in their entirety.

For the purposes of this condition of licence, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meaning as that set out in the Regulations.

3. To fulfill its outstanding commitments to Canadian content development (CCD) set out in the appendix to *English-language FM radio station in Fredericton*, Broadcasting Decision CRTC 2012-286, 11 May 2012, the licensee shall make annual CCD contributions of \$100,000 in the 2018-2019 broadcast year (i.e., by 31 August 2019) and \$75,000 in the 2019-2020 broadcast year (i.e. by 31 August 2020). These contributions are in addition to the required basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*.

Of these amounts, the licensee shall allocate at least 20% per broadcast year to FACTOR. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Expectation

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

Appendix 2 to Broadcasting Decision CRTC 2018-220

Terms, conditions of licence and expectation for the English-language commercial FM radio programming undertaking CHHI-FM Miramichi City

Terms

The licence will expire 31 August 2025.

Conditions of licence

1. The licensee shall adhere to the standard conditions of licence set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as well as the conditions set out in the licence for the undertaking.
2. As an exception to section 15(2) of the *Radio Regulations, 1986*, the licensee may allocate to Radio Miracadie inc. for the support and development of its French-language community FM radio station in Miramichi, New Brunswick, all or part of the amount to be contributed under that section which is not otherwise required to be allocated to FACTOR or MUSICACTION.
3. To fulfill its outstanding commitments to Canadian content development (CCD) set out in Appendix 2 to *Licensing of new radio stations to serve Miramichi*, Broadcasting Decision CRTC 2012-301, 18 May 2012, the licensee shall make a CCD contribution of \$15,000 in the 2018-2019 broadcast year (i.e. by 31 August 2019). This contribution is in addition to the required basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*.

Of this amount, the licensee shall allocate no less than 20% per broadcast year to FACTOR or MUSICACTION. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 or may otherwise be allocated to Radio Miracadie inc. for the support and development of its French-language community FM radio station in Miramichi.

Expectation

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.