



Broadcasting Decision CRTC 2023-190

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Reference: Part 1 licence renewal application posted on 22 November 2022

Ottawa, 5 July 2023

LU Campus Radio Inc.
Thunder Bay, Ontario

Public record: 2022-0843-8

CILU-FM Thunder Bay – Licence renewal

Summary

The Commission **renews** the broadcasting licence for the English-language campus radio station CILU-FM Thunder Bay, Ontario, from 1 September 2023 to 31 August 2028. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements.

Application

1. The Commission has the authority, pursuant to subsections 9(1) and 9.1(1) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*.
2. On 10 June 2022, the Commission issued Broadcasting Notice of Consultation 2022-152,¹ which listed radio stations for which the broadcasting licences would expire 31 August 2023 and therefore needed to be renewed to continue their operations. In that notice of consultation, the Commission requested that the licensees of those stations submit renewal applications for their broadcasting licences.
3. In response, LU Campus Radio Inc. (LU Campus Radio) filed an application to renew the broadcasting licence for the English-language campus radio station CILU-FM Thunder Bay, Ontario, which expires 31 August 2023.
4. The Commission received an intervention in support of this application from the National Campus and Community Radio Association (NCRA), which noted the station's success and its involvement in its community. The intervener also confirmed that the licensee has made use of the resources available through its NCRA membership and has taken steps to ensure it complies with regulatory obligations

¹ As corrected in Broadcasting Notice of Consultation 2022-152-1.

Non-compliance

Annual returns

5. Paragraph 10(1)(i) of the old *Broadcasting Act*, which was in effect while the licensee's application was being considered, granted the Commission the authority, in furtherance of its objects, to make regulations requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.
6. Pursuant to this authority, the Commission made subsection 9(2) of the *Radio Regulations, 1986* (the Regulations), which requires licensees to file an annual return, including financial statements, by no later than 30 November of a given year for the broadcast year ending the previous 31 August. The specific filing requirements, including the requirement to file financial statements, are set out in Broadcasting Information Bulletin 2011-795 and in Circular No. 404.
7. Subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, stipulates that any regulation made pursuant to paragraph 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*. Accordingly, subsection 9(2) of the Regulations is considered to be a condition of service pursuant to paragraph 9.1(1)(o) of the new *Broadcasting Act*, and licensees continue to be subject to this requirement.
8. According to Commission records, the annual returns for CILU-FM that were provided to the Commission for the 2016-2017 and 2017-2018 broadcast years did not include financial statements. The missing financial statements were filed in October 2022.
9. LU Campus Radio stated that for the broadcast years in question, the station manager did not inform board members that financial statements were needed. The licensee indicated that to address the situation, the board has implemented a yearly calendar with deadlines to meet regulatory compliance. It also noted that it submitted the missing financial statements once informed of this missing information.
10. In light of the above, the Commission finds the licensee in non-compliance with subsection 9(2) of the Regulations for the 2016-2017 and 2017-2018 broadcast years.

Implementation of a National Public Alerting System

11. Subsection 10(1) of the *Broadcasting Act* authorizes the Commission, in furtherance of its objects, to make regulations regarding, among other things, the broadcasting of programs. In Broadcasting Regulatory Policy 2014-444, the Commission stated that the broadcasting system has a vital role to play in the provision of emergency alert messages to Canadians and that the duty to inform the public of imminent perils is at the core of the public service obligations of all broadcasters. The provision of emergency alert messages is achieved through the National Public Alerting System (NPAS).

12. Pursuant to the authority granted by subsection 10(1) of the *Broadcasting Act*, the Commission made section 16 of the Regulations. It specifies, among other things, that except as otherwise provided under a condition of its licence, a licensee of a campus radio station shall implement, by no later than 31 March 2016, a public alerting system that broadcasts without delay any audio alert that it receives from the National Alert Aggregation and Dissemination (NAAD) System that
 - (a) announces an imminent or unfolding danger to life; and
 - (b) is designated by the applicable issuing authority for immediate broadcast in all or part of the area within the station's A.M. 5 mV/m contour, F.M. 0.5 mV/m contour or digital service area, as the case may be.
13. According to Commission records, the licensee did not implement the NPAS by the 31 March 2016 deadline.
14. The licensee stated that it had difficulty obtaining and installing the NPAS due to COVID-19 and staff turnover. It confirmed however, that the NPAS was installed and has been fully operational as of 9 January 2023.
15. In light of the above, the Commission finds the licensee in non-compliance with section 16 of the Regulations.

Regulatory measures

16. The Commission's approach to non-compliance by radio stations is set out in Broadcasting Information Bulletin 2014-608. Under that approach, each instance of non-compliance is evaluated in its context and in light of factors such as the number, recurrence and seriousness of the instances of 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.
17. In regard to the licensee's non-compliance with subsection 9(2) of the Regulations, the Commission notes that the licensee promptly responded to the request for documentation and submitted the missing financial statements once informed that they were not included with the annual returns. The Commission is satisfied with the licensee's response and with the measures it has put in place to ensure compliance in the next licence term.
18. In regard to the licensee's non-compliance with section 16 of the Regulations, the Commission notes that the NPAS has now been installed, and is confident that the licensee now understands its regulatory obligations and can bring the station into compliance in the next licence term. However, the Commission considers the licensee's non-compliance with requirements relating to the implementation of the NPAS to be very severe in nature given that, by the time the licensee implemented the system, more than six years had passed since the 31 March 2016 time limit for campus radio stations.

19. Therefore, in light of the instances of non-compliance noted above, the Commission finds it appropriate to renew the licence for the station for a short-term period, which will allow for an earlier review of the licensee's compliance with its regulatory requirements.

Conclusion

20. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language campus radio programming undertaking CILU-FM Thunder Bay, Ontario, from 1 September 2023 to 31 August 2028.

21. Pursuant to subsection 49(1) of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act*. As such, the conditions of licence for this licensee became conditions of service and continue to apply to the licensee. For ease of reference, the **conditions of service** for this licensee are set out in the appendix to this decision. Further, the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. The licensee shall also adhere to any such requirements set out in the broadcasting licence for the undertaking

Reminders

22. The Commission reminds the licensee that it must comply at all times with the requirements set out in the *Broadcasting Act*, the Regulations, its licence and its conditions of service.

23. The Commission also reminds the licensee that it must comply at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*.²

Annual returns and financial statements

24. Licensees are responsible for filing complete annual returns on time, including financial statements. As set out in Broadcasting Information Bulletin 2011-795, it is the licensee's responsibility to ensure that all appropriate forms and documentation are included with its annual returns, and to contact the Commission if further clarification is required.

National Public Alerting System

25. The full participation of the broadcasting industry is important for ensuring that the NPAS is effective in safeguarding and warning Canadians. Accordingly, the Commission considers that compliance must be enforced. Stations that are in non-compliance with the requirements relating to the NPAS will be closely monitored

² SOR/97-192, 8 April 1997

to ensure that they come into compliance within the prescribed timeframe. The Commission could choose to apply other regulatory measures, such as those set out in Broadcasting Information Bulletin 2014-608, should the requirements relating to the NPAS not be fulfilled.

Force and effect of broadcasting licences

26. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect should the broadcasting certificate issued by the Department of Industry (also known as Innovation, Science and Economic Development Canada) lapse.

Practical guide for radio licence renewals

27. To learn more about the Commission's review of compliance with requirements relating to radio licences, and about the radio renewal process, please consult the Commission's [Practical guide to radio licence renewals](#).

Secretary General

Related documents

- *Call for licence renewal applications – Submission of renewal applications for broadcasting licences of radio stations expiring on 31 August 2023 – Regular renewal process*, Broadcasting Notice of Consultation CRTC 2022-152, 10 June 2022, as corrected by Broadcasting Notice of Consultation CRTC 2022-152-1, 18 August 2022
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Requirements for the Filing of Financial Statements with the Broadcasting Annual Return*, Circular No. 404, 23 August 1994

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-190

Terms, conditions of service, expectations and encouragement for the English-language campus radio programming undertaking CILU-FM Thunder Bay, Ontario

Terms

The licence will expire 31 August 2028.

Conditions of service

1. The licensee shall adhere to the conditions of service set out in *Standard conditions of licence for campus and community radio stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012. Further, the licensee shall adhere to the requirements set out in the broadcasting licence for the undertaking.
2. The licensee shall adhere to all applicable requirements set out in the *Radio Regulations, 1986* that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.³

Expectations

Cultural diversity

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

Update on boards of directors of community and campus radio stations

The Commission expects all community and campus licensees to file yearly updates on the composition of their boards of directors. These annual updates can be submitted at the time of submission of annual returns, following annual board of directors' elections or at any other time. Such information may be submitted through the Commission's website.

Encouragement

The Commission considers that campus radio stations should pay particular attention to employment equity in order to reflect fully the communities they serve. It encourages the licensee to consider employment equity in its hiring practices and in all other aspects of its management of human resources.

³ Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or (10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.