



Broadcasting Decision CRTC 2023-237

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

Ottawa, 3 August 2023

8041393 Canada Inc.
Scarborough, Ontario

Public record: 2022-0757-1

CJRK-FM Scarborough – Licence renewal

Summary

The Commission **renews** the broadcasting licence for the ethnic commercial specialty radio station CJRK-FM Scarborough, Ontario, from 1 September 2023 to 31 August 2030.

Application

1. The Commission has the authority, pursuant to subsections 9(1), 9.1(1) and 11.1(2) 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* and to make orders respecting expenditures.
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, 8041393 Canada Inc. (8041393 Canada) filed an application to renew the broadcasting licence for the ethnic commercial specialty radio station CJRK-FM Scarborough, Ontario, which expires 31 August 2023.² The Commission received interventions in support of this application.

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

² The original licence expiry date for the station was 31 August 2021. The licence was administratively renewed until 31 August 2022 as a result of Broadcasting Decision 2020-381 and until 31 August 2023 as a result of Broadcasting Decision 2021-298.

Non-compliance

Canadian content development contributions

4. On 27 April 2023, the *Online Streaming Act* came into force and introduced a number of amendments to the *Broadcasting Act*. Pursuant to subsection 9(1) of the old *Broadcasting Act*, the Commission had the authority to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deemed appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of that Act.
5. Paragraph 3(1)(e) of the *Broadcasting Act* declares that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming. The old *Broadcasting Act* also provided that private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming (subparagraph 3(1)(s)(i) of the old *Broadcasting Act*).
6. Consistent with these provisions, in Broadcasting Decision 2014-574, the Commission approved an application by 8041393 Canada for a broadcasting licence to operate a new ethnic commercial specialty FM radio station to serve Scarborough, which would launch as CJRK-FM. Consistent with a proposal by 8041393 Canada to make a \$120,000 CCD contribution over seven consecutive broadcast years that was over-and-above the contribution required under the *Radio Regulations, 1986* (the Regulations), the Commission imposed the following condition of licence, set out in Appendix 2 to Broadcasting Decision 2014-574:
 8. In addition to any required basic annual contribution to Canadian content development (CCD), set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time, the licensee shall, upon commencement of operations, make a contribution of \$120,000 over seven consecutive broadcast years to the promotion and development of Canadian content, to be allotted each year as follows:

Year 1	\$3,000
Year 2	\$5,500
Year 3	\$17,500
Year 4	\$21,500
Year 5	\$23,500
Year 6	\$24,500
Year 7	\$24,500

Of this amount, the licensee shall allocate no less than \$500 per broadcast year, beginning in the second year of operations, to FACTOR. The remaining amounts of this additional CCD contribution 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.

7. Pursuant to subsection 50(2) of the *Online Streaming Act*, conditions of licence relating to contributions that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to subsection 11.1(2) of the new *Broadcasting Act*. As such, this condition of licence became a condition of service and continues to apply to the licensee.
8. For the 2020-2021 broadcast year (year 5 of operations), the licensee contributed \$19,500 to CCD, which was \$4,000 less than the \$23,500 required by the condition of licence.
9. The licensee stated that it had difficulty meeting its CCD obligations because of the COVID-19 pandemic and the competition caused by HD Radio in the market. It added that this competition caused the station to lose many clients to unlicensed services.
10. The licensee has since paid the shortfall and the required amounts for year 6 of operations. Further, on 28 November 2022, the licensee submitted the proof of payment for the remaining CCD contribution for year 7, which was due on 31 August 2023.
11. In light of the above, the Commission finds the licensee in non-compliance with condition of licence 8 set out in Appendix 2 to Broadcasting Decision 2014-574 for the 2020-2021 broadcast year.

Regulatory measures

12. 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.
13. In this case, the Commission notes that the licensee has rectified its CCD shortfall and has made all over-and-above CCD contributions required by condition of licence. The Commission therefore finds that the imposition of further regulatory measures is not necessary.

Conclusion

14. In light of all of the above, the Commission **renews** the broadcasting licence for the ethnic commercial specialty programming undertaking CJRK-FM Scarborough, Ontario, from 1 September 2023 to 31 August 2030.
15. Pursuant to subsections 49(1) and 50(2) 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*, or subsection 11.1(2) in the case of expenditure requirements. 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**³ 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.

Reminders

16. 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.

Canadian content development

17. It is important that licensees make their required contributions to CCD, given that CCD initiatives not only help to develop and advance the careers of emerging Canadian artists, but increase the supply of high-quality Canadian music in a variety of genres and the demand for Canadian music by listeners. The non-payment of CCD contributions therefore has the potential to cause harm to the Canadian broadcasting system.

Local news

18. Radio stations are an important daily source of local news and information for communities. Carrying on a broadcasting undertaking comes with conditions, regulatory obligations and responsibilities, which include contributing to the Canadian broadcasting system by ensuring that Canadians have access to local programming that reflects their needs and interests and informs them of important current issues.
19. Although Broadcasting Regulatory Policy 2022-332 does not specify a minimum level of weekly news to be broadcast, it does specify the type of spoken word material

³ The Commission is changing the wording of condition of service 1 set out in the appendix to this decision so that it accurately reflects CJRK-FM's status as a commercial specialty radio station that broadcasts ethnic programming.

that must be included as part of a station's local programming. In accordance with that regulatory policy, the Commission reminds the licensee that its station, in its local programming, must incorporate spoken word material of direct and particular relevance to the communities served, and that this programming must include local news, weather, sports coverage, and the promotion of local events and activities. In addition, the Commission encourages the licensee to ensure that a reasonable amount of daily local news and information is made available to those communities.

Force and effect of broadcasting licences

20. 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

21. 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

- *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022
- *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
- *Various radio and audio programming undertakings and network – Administrative renewals*, Broadcasting Decision CRTC 2021-298, 30 August 2021
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-381, 27 November 2020
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Licensing of new radio stations to serve Scarborough and technical changes for existing radio stations serving Scarborough, Toronto and Whitchurch-Stouffville*, Broadcasting Decision CRTC 2014-574, 5 November 2014

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-237

Terms, conditions of service, expectations and encouragement for the ethnic commercial specialty radio programming undertaking CJRK-FM Scarborough, Ontario

Terms

The licence will expire 31 August 2030.

Conditions of service

1. The licensee shall adhere to the conditions of service set out in *Revised conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2022-334, 7 December 2022, with the exception of condition number 7. 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*.⁴
3. The station shall be operated within the Specialty format as defined in *A Review of Certain Matters Concerning Radio*, Public Notice CRTC 1995-60, 21 April 1995, in conjunction with *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2022-333, 7 December 2022.
4. The licensee shall devote 100% of the programming broadcast during each broadcast week to ethnic programs, as defined in the *Radio Regulations, 1986*.
5. The licensee shall devote a minimum of 89% of the programming broadcast during each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*.
6. In each broadcast week, the licensee shall provide programming directed to a minimum of 18 distinct ethnic groups in a minimum of nine different languages.
7. The licensee shall ensure that at least 10% of the musical selections broadcast during ethnic programming periods during each broadcast week are Canadian selections.
8. In each broadcast week, not less than 50% of the programming shall be broadcast in the Korean, Farsi and Tamil languages.

⁴ 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*.

For the purposes of these conditions of service, the terms “broadcast week,” “musical selection” and “Canadian selection” shall have the same meaning as that set out in the *Radio Regulations, 1986*.

Expectations

Cultural diversity

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

Canadian emerging artists

Consistent with the Commission’s determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to devote, in each broadcast week, at least 5% of the station’s musical selections to selections from Canadian emerging artists broadcast in their entirety. The licensee should report annually on how it has met this expectation, including the percentage of selections from Canadian emerging artists out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the definition of “Canadian emerging artist” is the same as that set out in paragraph 346 of Broadcasting Regulatory Policy 2022-332.

Indigenous musical selections

Consistent with the Commission’s determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to include Indigenous musical selections on the station’s playlist. The licensee should report annually on the amount of Indigenous content aired on the station throughout the broadcast year (i.e., from 1 September to 31 August), including the percentage of Indigenous musical selections out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the licensee may use the provisional definition of “Indigenous-Canadian musical selection” set out in paragraph 441 of Broadcasting Regulatory Policy 2022-332 to determine whether a musical selection can be considered an Indigenous musical selection.

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 in its hiring practices and in all other aspects of its management of human resources.