



## Broadcasting Decision CRTC 2023-243

PDF version

Reference: Part 1 licence renewal application posted on 15 December 2022

Ottawa, 7 August 2023

**Akash Broadcasting Inc.**  
Surrey, British Columbia

*Public record: 2022-0773-7*

### CJCN-FM Surrey – Licence renewal

#### Summary

The Commission **renews** the broadcasting licence for the commercial ethnic specialty radio station CJCN-FM Surrey, British Columbia, from 1 September 2023 to 31 August 2030.

#### 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,<sup>1</sup> 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, Akash Broadcasting Inc. (Akash) filed an application to renew the broadcasting licence for the commercial ethnic specialty radio station CJCN-FM Surrey, British Columbia, which expires 1 September 2023. The Commission did not receive any interventions in regard to this application.

#### Non-compliance

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

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<sup>1</sup> As corrected in Broadcasting Notice of Consultation 2022-152-1.

*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 2016-464, the Commission approved an application by Akash for a broadcasting licence to operate a new ethnic commercial specialty FM radio station in Surrey, which would launch as CJCN-FM. Consistent with a proposal by Akash to make over-and-above Canadian content development (CCD) contributions totalling \$700,000, the Commission imposed the following condition of licence, set out in Appendix 2 to Broadcasting Decision 2016-464:
  10. In addition to the 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 an annual contribution of \$100,000 (\$700,000 over seven consecutive broadcast years) to the promotion and development of Canadian content.

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. In Broadcasting Decision 2021-274, in response to the challenges posed by the COVID-19 pandemic, the Commission provided regulatory relief, in the form of an extended payment approach for the 2019-2020 broadcast year, to private Canadian radio broadcasters. That is, the Commission permitted the licensees that incurred a shortfall for that broadcast year to pay 50% of said shortfall by no later than 31 August 2022 and the remainder by no later than 31 August 2023.

9. Akash had incurred a shortfall of \$45,167<sup>2</sup> and was, based on the above-mentioned extended payment approach, scheduled to make up this shortfall in two contributions, each of which was to be made by the deadlines specified in Broadcasting Decision 2021-274. However, Akash did not make the contribution of \$22,584 for the 2019-2020 broadcast year that was due by 31 August 2022. Akash also did not make any contribution for the 2020-2021 broadcast year and made a contribution of only \$70,000 for the 2021-2022 broadcast year. In total, for the 2019-2020 through 2021-2022 broadcast years (excluding the payment of \$22,583 due by 31 August 2023), Akash has incurred a shortfall in required CCD contributions of \$152,584.

**Contribution shortfall incurred by broadcast year**

Broadcast year	Contributions due	Amount paid	Shortfall
Year 2 – 2020-2021	\$100,000	\$0	\$100,000
Year 3 – 2021-2022	\$122,584 <sup>3</sup>	\$70,000	\$52,584
<b>Total</b>	<b>\$222,584</b>	<b>\$70,000</b>	<b>\$152,584</b>

10. The licensee indicated that the above-mentioned shortfalls were the result of poor revenue performance caused by the station commencing operations in January 2020, just a few months prior to the onset of the COVID-19 pandemic. According to Akash, not only did the pandemic have society-wide results including, in particular, significantly reduced retail sales, but the launch date of the station also precluded it from qualifying for much of the government relief funding that was subsequently made available (since the station’s operating history began in January 2020). In addition, Akash submitted that the shortfalls for the 2019-2020 and 2020-2021 broadcast years were a result of its decision, despite unanticipatedly low revenues, to retain staff in order to provide programming of the highest consistency and quality.
11. The licensee proposed to make all of its over-and-above CCD contributions according to a modified payment schedule that would require annual contributions during each of the first four years of its second licence term.
12. The licensee added that it is an independent, standalone, non-vertically integrated company and that, in order to gain traction and a financial foothold, a period of time is required for the station to mature. In the licensee’s view, the proposed schedule would address its concerns about sustaining the operations of the station while also

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<sup>2</sup> Broadcast years begin on 1 September. CJCJ-FM launched in January 2020. Given that CJCJ-FM was in operation for only eight of the twelve months of Year 1 (broadcast year 2019-2020), Akash was required to make a pro-rated payment of \$66,667 for that broadcast year and to pay the remainder (that is, \$33,333) in Year 8 (broadcast year 2026-2027).

<sup>3</sup> This amount includes the contribution required for Year 3 (broadcast year 2021-2022) as well as the payment of \$22,584 that Akash was required, in accordance with the extended payment approach set out in Broadcasting Decision 2021-274, to make for the contributions from Year 1 (broadcast year 2019-2020).

providing funding that would meet its original commitment to support initiatives funded by CCD contributions.

13. In light of the above, the Commission finds the licensee in non-compliance with condition of licence 10 set out in Appendix 2 to Broadcasting Decision 2016-464.

### **Regulatory measures**

14. 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.
15. In regard to non-compliance with requirements relating to CCD contributions, the Commission may impose as a remedial measure for the harm caused to the broadcasting system a condition of service requiring the licensee to make an additional CCD contribution, in addition to the requirement to pay any outstanding amount. In this respect, the Commission considers that in light of the licensee's situation as an independent player and as a new entrant in the market, an additional contribution may prove undue and may impede the licensee's ability to reach market potential. The Commission will therefore not impose an additional CCD contribution as a remedial measure for the harm caused to the broadcasting system.
16. In cases where a licensee is found to be in non-compliance with the requirement that it is proposing to amend, the Commission could deny the licensee's application for the amendment. In this case, the Commission is satisfied that the licensee understands the requirements relating to over-and-above CCD contributions and the importance of these commitments for the broadcasting system. However, given that Akash is in non-compliance with its condition of licence relating to over-and-above CCD contributions, the Commission does not consider it appropriate to adopt the modified payment schedule proposed by Akash since this would further delay payments that should have been disbursed to CCD in previous years.
17. Instead, the Commission finds it appropriate to require Akash to pay the outstanding shortfall in CCD contributions (i.e., \$152,584) by making two equal payments of \$76,292 by no later than **30 November 2023** for the first payment and **30 November 2024** for the second payment.
18. Further, the Commission finds it appropriate to require Akash to pay its remaining over-and-above CCD contributions in accordance with the original payment schedule set out in condition of licence 10 in Appendix 2 to Broadcasting Decision 2016-464. The payments are to be made by no later than **31 August** of each broadcast year and are to be allocated as follows:

- Year 4 (broadcast year 2022-2023): \$100,000

- Year 5 (broadcast year 2023-2024): \$100,000
- Year 6 (broadcast year 2024-2025): \$100,000
- Year 7 (broadcast year 2025-2026): \$100,000
- Year 8 (broadcast year 2026-2027): \$33,333<sup>4</sup>

19. Finally, the Commission finds it appropriate to require Akash, in accordance with the extended payment approach set out in Broadcasting Decision 2021-274 for contributions for the 2019-2020 broadcast year, to make a payment of \$22,583 by **31 August 2023**.<sup>5</sup>

20. Accordingly, the Commission **orders** Akash, as a **condition of service**, to pay the outstanding shortfall in CCD contributions and make all remaining contributions, as set out in paragraphs 17 through 19 above.

21. Given that this renewal application was filed and processed prior to the coming into force of the new *Broadcasting Act*, and that interested parties had an opportunity to comment on the issue of CCD non-compliance and the request to revise the payment schedule as part of that process, the Commission considers the Part 1 proceeding to fulfill the publication and consultation requirement for purposes of subsection 11.1(7) of the new *Broadcasting Act* in this case.

## Conclusion

22. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial ethnic specialty radio programming undertaking CJCN-FM Surrey, British Columbia, from 1 September 2023 to 31 August 2030.

23. 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 and subsection 11.1(2) 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.

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<sup>4</sup> As noted in footnote 2, Akash was required to make a pro-rated payment of \$66,667 during Year 1 (broadcast year 2019-2020) and to pay the remaining \$33,333 in Year 8 (broadcast year 2026-2027).

<sup>5</sup> This is the second of the two deferred payments mentioned in paragraph 9 of this decision.

## **Reminders**

24. The Commission reminds the licensee that it must comply at all times with the requirements set out in the *Broadcasting Act*, the *Radio Regulations, 1986*, its licence and its conditions of service.

## **Importance of making CCD contributions**

25. 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.
26. It is incumbent upon licensees to provide, by the required deadlines, proof of payment to such initiatives. Licensees must also provide sufficient documentation to support the eligibility of their contributions. Failure to do so may result in the Commission finding a contribution ineligible, which in turn may affect a station's compliance with its regulatory obligations.

## **Local news**

27. 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.
28. 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 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**

29. 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

30. 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
- *Regulatory relief for private Canadian broadcasters in the context of the COVID-19 pandemic*, Broadcasting Decision CRTC 2021-274, 12 August 2021
- *Licensing of new radio stations to serve Surrey and Vancouver, and addition of a transmitter in Surrey*, Broadcasting Decision CRTC 2016-464, 28 November 2016
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014

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

## Appendix to Broadcasting Decision CRTC 2023-243

### Terms, conditions of service, expectations and encouragement for the commercial ethnic specialty radio programming undertaking CJCN-FM Surrey, British Columbia

#### 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 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*.<sup>6</sup>
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. As an exception to the percentage of Canadian musical selections set out in subsections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986*, the licensee shall devote, in each broadcast week, at least 50% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.
5. As an exception to the percentage of Canadian musical selections set out in subsection 2.2(4) of the *Radio Regulations, 1986*, the licensee shall devote, in each broadcast week, at least 12% of its musical selections from content category 3 (Special Interest Music) broadcast during ethnic programming periods to Canadian selections.
6. The licensee shall devote 100% of the programming broadcast each broadcast week to ethnic programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.

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<sup>6</sup> 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*.



7. The licensee shall devote at least 77% of the programming broadcast each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.
8. In each broadcast week, the licensee shall provide programming directed to a minimum of 21 distinct ethnic groups in at least 14 different languages.
9. In each broadcast week, at least 67% of the programming shall be broadcast in the Punjabi, Hindi and Urdu languages.
10. The licensee shall not broadcast Chinese-language programming.
11. In addition to the required basic annual contribution to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, the licensee shall make, by no later than **31 August** of each broadcast year, an annual contribution to the promotion and development of Canadian content, as follows:
  - Year 4 (broadcast year 2022-2023): \$100,000
  - Year 5 (broadcast year 2023-2024): \$100,000
  - Year 6 (broadcast year 2024-2025): \$100,000
  - Year 7 (broadcast year 2025-2026): \$100,000
  - Year 8 (broadcast year 2026-2027): \$33,333

These additional CCD contributions shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives as set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022. Examples of eligible and ineligible initiatives are provided on the Commission's [Canadian Content Development Contributions and Eligible Initiatives](#) webpage.

The licensee shall file all proof of payment and eligibility regarding these CCD contributions by **30 November** of each year, for the broadcast year ending on the previous 31 August, in a form deemed acceptable by the Commission.

12. To fulfill its outstanding commitments to Canadian content development (CCD) set out in condition of service 10 in Appendix 2 to *Licensing of new radio stations to serve Surrey and Vancouver, and addition of a transmitter in Surrey*, Broadcasting Decision CRTC 2016-464, 28 November 2016, the licensee shall, in addition to the basic annual contribution to CCD set out in section 15 of the *Radio Regulations, 1986*, contribute \$152,584 to the promotion and development of Canadian content, to be paid as follows:
  - \$76,292 by **30 November 2023**; and
  - \$76,292 by **30 November 2024**.

These additional CCD contributions shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives as set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022. Examples of eligible and ineligible initiatives are provided on the Commission's [Canadian Content Development Contributions and Eligible Initiatives](#) webpage.

The licensee shall file all proof of payment and eligibility regarding these CCD contributions by **14 December 2023** for the first payment and by **14 December 2024** for the second payment, in a form deemed acceptable by the Commission.

13. To fulfill the requirement relating to Canadian content development (CCD) contributions set out in condition of service 10 in Appendix 2 to *Licensing of new radio stations to serve Surrey and Vancouver, and addition of a transmitter in Surrey*, Broadcasting Decision CRTC 2016-464, 28 November 2016, and consistent with the relief granted in *Regulatory relief for private Canadian broadcasters in the context of the COVID-19 pandemic*, Broadcasting Decision CRTC 2021-274, 12 August 2021 (Broadcasting Decision 2021-274), the licensee shall, for the 2019-2020 broadcast year, by no later than **31 August 2023** (i.e., the payment deadline set out in paragraph 211 of Broadcasting Decision 2021-274 for the second half of the CCD contribution shortfall for that broadcast year), make a contribution of \$22,583 to the promotion and development of Canadian content.

For the purposes of these conditions, the terms “broadcast week,” “Canadian musical selection,” “content category” and “musical selection” shall have the same meanings as those 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.