



## Broadcasting Decision CRTC 2023-246

PDF version

References: 2023-6-2 and 2023-6-3

Ottawa, 8 August 2023

**Faithway Communications Inc.**  
Fredericton, New Brunswick

*Public record: 2022-0958-5*

*Public hearing in the National Capital Region  
3 May 2023*

### **CJRI-FM Fredericton and its transmitters CJRI-FM-1 Woodstock, CJRI-FM-2 St. Stephen, and CJRI-FM-3 New Bandon – Non-renewal of licence**

#### **Summary**

The Commission **denies** the application by Faithway Communications Inc. to renew the broadcasting licence for the English-language commercial specialty (Religious music) radio station CJRI-FM Fredericton, New Brunswick, and its transmitters CJRI-FM-1 Woodstock, CJRI-FM-2 St. Stephen, and CJRI-FM-3 New Bandon. Accordingly, the licence will expire at midnight on 31 August 2023 and, as of that date, the licensee will have to cease operating this station.

In light of the severity of the current instances of non-compliance, the station's history and the licensee's failure to respond to the Commission, including not appearing at the public hearing to consider the renewal of its licence after being called to appear, the Commission is not convinced that imposing conditions of service or mandatory orders, suspending the licence or granting a short-term renewal would be effective measures to ensure compliance. Consequently, the Commission finds that not renewing the broadcasting licence for CJRI-FM and its transmitters is the only appropriate measure in the circumstances.

#### **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 on 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 by no later than 31 August 2022.
3. Following additional prompts by the Commission, Faithway Communications Inc. (Faithway) filed, on 23 November 2022, an application to renew the broadcasting licence for the English-language commercial specialty (Religious music) radio station CJRI-FM Fredericton and its transmitters CJRI-FM-1 Woodstock, CJRI-FM-2 St. Stephen, and CJRI-FM-3 New Bandon, which expires 31 August 2023.

### **Intervention**

4. The Commission received an intervention in opposition to the application from Paul Dixon, who is a minority shareholder and director of Faithway. The intervener indicated that the station has been poorly managed, and that as a result, it has been in non-compliance with the *Radio Regulations, 1986* (the Regulations), lost clients, and is in debt. Given the financial position of the station, its negligent operation, the numerous non-compliance issues and the potential for further non-compliance, the intervener submitted that the Commission should not renew the licence for CJRI-FM.
5. The licensee did not reply to the intervention.

### **Background**

6. In Broadcasting Decision 2004-523, the Commission approved a new specialty commercial FM radio station to be owned and operated by a not-for-profit corporation to be incorporated and controlled by its board of directors. The station would broadcast Christian music. The expiry date for the first licence term was 31 August 2011.<sup>2</sup>
7. On 5 January 2005, a for-profit corporation owned by Ross Ingram (51% voting interest) and Paul Dixon (49% voting interest) was incorporated under the name of Faithway. As a result of this incorporation, the effective control of the station changed from the board of directors of the not-for-profit corporation to be incorporated, as had been approved in Broadcasting Decision 2004-523, to Ross Ingram, the majority shareholder of Faithway, without prior approval from the Commission.
8. During the licence renewal process, the licensee informed the Commission of the change in effective control. This change in effective control was approved in administrative letter L2013-0030. The Commission noted in the letter that the

---

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

<sup>2</sup> The licence was administratively renewed until 31 January 2014 as a result of Broadcasting Decisions 2011-555, 2012-434, 2013-418 and 2013-740.

transaction subject to this approval was completed without the prior approval of the Commission. The Commission reminded the licensee that it had to remain in compliance at all times with subsection 11(4) of the Regulations.

9. In Broadcasting Decision 2014-25, which renewed the broadcasting licence for CJRI-FM until 31 August 2015, the Commission found the licensee in non-compliance with subsection 9(2) of the Regulations relating to the filing of annual returns, subsection 9(4) of the Regulations relating to the licensee's obligation to respond to Commission requests for information, and subsection 11(4) of the Regulations relating to obtaining prior Commission approval for a change to the effective control of an undertaking.
10. In addition, the Commission found the licensee in non-compliance with the station's condition of licence relating to contributions to Canadian talent development and Canadian content development (CCD), and subsection 15(2) of the Regulations relating to contributions to CCD.
11. As a result of this non-compliance, the Commission renewed the broadcasting licence for CJRI-FM for a short-term period of less than two years to allow for an earlier review of the licensee's compliance with the regulatory requirements.
12. In Broadcasting Decision 2015-216, the Commission renewed the broadcasting licence for CJRI-FM for a full licence term until 31 August 2022.<sup>3</sup>

### **Non-compliance**

13. The Commission attempted on numerous occasions to obtain both the licence renewal application and the necessary information to assess the application as well as the licensee's compliance. However, the Commission was unable to obtain the information and, as a result, in Broadcasting Notice of Consultation 2023-6-2, the Commission called the licensee to a public hearing to be held on 3 May 2023. The Commission noted that the licensee appeared to be in non-compliance with the following:
  - subsection 9(4) of the Regulations requiring licensees to respond to requests for information relating to adherence to their regulatory obligations;
  - subsection 9(2) of the Regulations relating to the submission of complete and accurate annual returns for the 2017-2018 to 2021-2022 broadcast years; and
  - subsection 16(2) of the Regulations relating to the implementation of the National Public Alerting System (NPAS).
14. Given the instances of apparent non-compliance noted above, the previous instances of non-compliance identified in Broadcasting Decision 2014-25 as well as the seriousness of these instances of non-compliance, the Commission stated that it had

---

<sup>3</sup> The licence was administratively renewed until 31 August 2023 in Broadcasting Decision 2021-298.

concerns regarding the licensee's ability and commitment to operate the station in a compliant manner. Consequently, the Commission indicated that, should it find that the licensee is once again in non-compliance, it would consider the possibility of suspending, not renewing or revoking the broadcasting licence for CJRI-FM pursuant to sections 9 and 24 of the *Broadcasting Act*.

15. Despite being called to appear at the 3 May 2023 public hearing to address matters related to compliance, the licensee declined to appear.

### **Requests for information**

16. 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.
17. Pursuant to this authority, the Commission made paragraph 9(4)(b) of the Regulations, which requires licensees to respond to any Commission request for information regarding the licensee's adherence to its conditions of licence, the *Broadcasting Act*, the Regulations, industry standards, practices or codes or any other self-regulatory mechanism of the industry.
18. 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, paragraph 9(4)(b) 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.
19. According to Commission records, the licensee did not submit a licence renewal application by the set deadline. Further, the licensee did not respond to the numerous requests for information related to the licensee's compliance with its regulatory obligations sent by email and registered mail, even after phone conversations with Commission staff providing them with more information on the required documentation.
20. Specifically, Commission staff contacted Faithway by phone and email multiple times, before and after the deadline, to remind it of the obligation to submit a licence renewal application. On 3 November 2022, Commission staff sent the licensee a letter by registered mail as well as by email to inform it that the deadline to file a renewal application had passed and that the application had to be filed as soon as possible. Commission staff also requested a response to the questions set out in a request for information letter.

21. On 23 November 2022, the licensee submitted a licence renewal application for CJRI-FM, over two months late, but did not respond to the questions set out in the 3 November 2022 request for information letter.
22. On 6 December 2022, Commission staff again sent the licensee a request for information letter and requested a response by 19 December 2022. The licensee did not reply to that letter.
23. On 31 January 2023, Commission staff sent the licensee another request for information letter and requested a response by 6 February 2023. The licensee did not reply to that letter.
24. Further, the licensee did not appear at the hearing to respond to the Commission's request for information to complete the record for the licence renewal application and explain the apparent instances of non-compliance, despite the efforts by the Commission to facilitate participation including by offering the option to appear virtually.
25. In light of the above, the Commission finds the licensee in non-compliance with paragraph 9(4)(b) of the Regulations.

#### **Annual returns**

26. Pursuant to paragraph 10(1)(i) of the old *Broadcasting Act*, the Commission also made subsection 9(2) of 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.
27. Similar to paragraph 9(4)(b), by virtue of subsection 49(2) of the *Online Streaming Act*, 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.
28. According to Commission records, the licensee did not submit complete annual returns for the 2017-2018 to 2021-2022 broadcast years on time. On 5 April 2023, the licensee submitted financial statements for the 2020-2021 and 2021-2022 broadcast years but not the annual returns. Further, the annual returns, including financial statements, are still missing for the 2018-2019 and 2019-2020 broadcast years and the financial statements for the 2017-2018 broadcast year have not yet been filed.
29. When given the opportunity to respond to this apparent non-compliance, the applicant did not address these concerns.
30. In light of the above, the Commission finds the licensee in non-compliance with subsection 9(2) of the Regulations for the 2017-2018 to 2021-2022 broadcast years.

## **National public alerting system**

31. 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 NPAS.
32. 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 commercial radio station shall implement, by no later than 31 March 2015, 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.
33. According to Commission records, the licensee did not implement the NPAS by the 31 March 2015 deadline.
34. In a letter sent on 12 March 2023 in response to a Commission e-mail in which the licensee was called to the appearing hearing, the licensee indicated that it had not implemented the NPAS but was in the process of ordering the necessary equipment.
35. In light of the above, the Commission finds the licensee in non-compliance with subsection 16(2) of the Regulations.

## **Regulatory measures**

36. The Commission's approach to non-compliance by radio stations is set out in Broadcasting Information Bulletin 2014-608. Under this 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 steps taken to rectify the situation are also considered.
37. As set out in Broadcasting Regulatory Policy 2014-554, for stations that are in non-compliance, and depending on the nature of the non-compliance, the Commission may apply, on a case-by-case basis, measures such as renewing the licence for a short term; imposing additional conditions of licence (conditions of service); calling the licensee to a public hearing to respond to and discuss apparent non-compliance;

issuing a mandatory order requiring the licensee to comply with regulatory requirements; or suspending, not renewing, or revoking the licence.

38. In addition to the instances of non-compliance during the current licence term, the licensee was in non-compliance with subsections 9(2) and 9(4) of the Regulations in its first licence term, as well as with subsection 11(4) relating to obtaining prior Commission approval for a change to the effective control of an undertaking<sup>4</sup> and with the station's condition of licence in Broadcasting Decision 2004-523 relating to contributions to Canadian talent development and CCD, and subsection 15(2) of the Regulations relating to contributions to CCD.
39. Holding a broadcasting licence comes with obligations and broadcasters are required to adhere at all times to regulatory requirements in order to operate a radio station. A failure to respond to requests for information or file annual returns and to submit requested information or documents in a timely manner impedes the Commission's ability to regulate and supervise undertakings because it does not have the information necessary with which to assess compliance with the regulatory obligations. It also demonstrates a serious disregard for the Commission's authority and role as the regulator. Therefore, this type of non-compliance is considered severe.
40. Further, when called to a hearing, a responsible licensee would have understood the seriousness of the situation and the Commission's warnings. It would have appeared before the Commission to explain its actions leading to its non-compliance and it would have taken all the necessary steps to correct the situation as quickly as possible. By choosing not to appear at the hearing despite the measures proposed by the Commission to facilitate the process, the licensee further demonstrated its disregard for the Commission's authority.
41. The fact that the licensee did not appear at the hearing also demonstrates that the licensee does not appreciate, or is not concerned about, the importance of operating its station in compliance. The Commission is of the view that the licensee did not show that it has the willingness and ability to operate its station in a compliant manner, and that it will not make the effort required to bring itself into compliance going forward.
42. Finally, the Commission notes that it did not receive any interventions in support of the licence renewal application and received an intervention in opposition from the minority shareholder and director of Faithway.

---

<sup>4</sup> While the station was approved as a non-for-profit corporation controlled by its board of directors in Broadcasting Decision 2004-523, it was rather incorporated as a for-profit corporation, controlled by Ross Ingram.

## Conclusion

43. When administrative renewals are excluded, the Commission has found Faithway in non-compliance in two of the three licence renewal decisions issued since CJRI-FM went on the air in 2005. In Broadcasting Decision 2014-25, CJRI-FM was found in non-compliance with:

- subsection 9(2) of the Regulations relating to the filing of annual returns;
- paragraph 9(4)(b) of the Regulations relating to the licensee's obligation to respond to Commission requests for information;
- subsection 11(4) of the Regulations relating to obtaining prior Commission approval for a change to the effective control of an undertaking; and
- the station's condition of licence relating to contributions to CCD, and subsection 15(2) of the Regulations relating to contributions to CCD.

44. In the present decision, the Commission has found Faithway in non-compliance with:

- subsection 9(4) of the Regulations requiring licensees to respond to requests for information relating to adherence to their regulatory obligations;
- subsection 9(2) of the Regulations relating to the submission of complete and accurate annual returns for the 2017-2018 to 2021-2022 broadcast years; and
- subsection 16(2) of the Regulations relating to the implementation of the NPAS.

45. Further, the failure to appear at the public hearing to address the non-compliance during the past licence term and outline measures that it would undertake to ensure compliance with regulatory requirements in the future as well as respond to Commission inquiries regarding its operations, raises significant concerns regarding respect for the Commission's authority as the regulator. The Commission is not convinced that the licensee's behaviour regarding its regulatory obligations or its attitude toward the Commission will change if its licence is renewed.

46. The Commission has considered all of the regulatory measures available to it to ensure that the licensee adheres to its obligations.

47. In light of the severity of the current instances of non-compliance, the station's history, and the licensee's failure to respond to Commission inquiries concerning the station's operation, including not appearing at the public hearing to consider the renewal of its licence after being called to appear, the Commission is not convinced that imposing conditions of service or mandatory orders, suspending the licence or granting a short-term renewal would be effective measures to ensure compliance.



Consequently, the Commission finds that not renewing the licence is the only appropriate measure in the circumstances.

48. In light of all of the above, the Commission **denies** the application by Faithway to renew the broadcasting licence for the English-language commercial specialty (Religious music) radio programming undertaking CJRI-FM Fredericton, New Brunswick, and its transmitters CJRI-FM-1 Woodstock, CJRI-FM-2 St. Stephen, and CJRI-FM-3 New Bandon. Accordingly, the licence will expire at midnight on **31 August 2023** and, as of that date, the licensee will have to cease operating this station.
49. A copy of this decision will be sent to the Department of Industry (also known as Innovation, Science and Economic Development Canada) to inform it of the situation.

Secretary General

### Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2023-6-2, 10 February 2023 and Broadcasting Notice of Consultation CRTC 2023-6-3, 2 May 2023
- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2022-152, 10 June 2022 as amended by Broadcasting Notice 2022-152-1, 18 August 2022
- Various radio and audio programming undertakings and network – Administrative renewals, Broadcasting Decision CRTC 2021-298, 30 August 2021
- *Christian music radio stations* - Licence renewals, Broadcasting Decision CRTC 2015-216, 25 May 2015
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 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
- *CJRI-FM Fredericton and its transmitters CJRI-FM-1 Woodstock, CJRI-FM-2 St. Stephen and CJRI-FM-3 New Bandon – Licence renewal and technical changes*, Broadcasting Decision CRTC 2014-25, 29 January 2014

- *CJRI-FM Fredericton and its transmitters CJRI-FM-1 Woodstock, CJRI-FM-2 St. Stephen and CJRI-FM-3 New Bandon – Administrative renewal*, Broadcasting Decision CRTC 2013-740, 20 December 2013
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2013-418, 19 August 2013
- *Administrative renewals*, Broadcasting Decision CRTC 2012-434, 8 August 2012
- *Administrative renewals*, Broadcasting Decision CRTC 2011-555, 31 August 2011
- *Christian music FM radio station in Fredericton*, Broadcasting Decision CRTC 2004-523, 26 November 2004