



Broadcasting Decision CRTC 2023-260

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

Ottawa, 18 August 2023

Stingray Radio Inc.

Wetaskiwin, Alberta

Public record: 2022-0721-6

CKJR Wetaskiwin – Licence renewal

Summary

The Commission **renews** the broadcasting licence for the English-language commercial AM radio station CKJR Wetaskiwin, Alberta, 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), 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, Stingray Radio Inc. (Stingray) filed an application to renew the broadcasting licence for the English-language AM commercial radio station CKJR Wetaskiwin, Alberta, which expires 31 August 2023. The Commission did not receive any interventions regarding this application.

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

Non-compliance

Radio monitoring materials

4. 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.
5. Pursuant to this authority, the Commission made paragraph 9(3)(b) of the *Radio Regulations, 1986* (the Regulations), which sets out the requirements regarding the information on musical selections that licensees must include in their lists of musical selections for any period specified by the Commission.
6. 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(3)(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.
7. The music lists that the licensee submitted for the 3 October to 9 October 2021 broadcast week indicated there were two instances where a block of songs was aired but the selections were not identified.
8. Stingray indicated that musical selections for the first block were not identified because cue sheets were not included for an ethnic program. Musical selections were not identified for the second block due to an error by the station's music director who mistakenly deleted the songs from the music scheduling software.
9. To rectify the situation, the licensee met with the producers of the ethnic program and with the station's music team to review processes and make sure that their daily cue sheets include all information needed.
10. In light of the above, the Commission finds the licensee in non-compliance with paragraph 9(3)(b) of the Regulations.

Canadian musical selections

11. Paragraph 10(1)(a) 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 respecting the proportion of time to be devoted to the broadcasting of Canadian programs. 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 resources available to them, contribute significantly to the creation and presentation of Canadian programming (subparagraph 3(1)(s)(i) of the old *Broadcasting Act*).

12. Pursuant to the authority granted by paragraph 10(1)(a) of the old *Broadcasting Act*, and consistent with the provision set out in paragraph 3(1)(e) and former subparagraph 3(1)(s)(i), the Commission made paragraph 2.2(3)(b) of the Regulations, which requires licensees of commercial radio stations to devote, in each broadcast week at least 10% of its musical selections from content category 3 (Special Interest Music) to Canadian selections and schedule them in a reasonable manner throughout each broadcast day.
13. Paragraph 2.2(3)(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 that requirement.
14. According to Commission records, during the 3 October to 9 October 2021 broadcast week, the licensee devoted 1% of its musical selections from content category 3 to Canadian selections, rather than the required 10%.
15. The licensee stated that the shortfall was due to an oversight by the producers of an ethnic program provided by a third party based in Edmonton. The licensee further stated that because the program was not in English, it was often difficult for the station staff to verify if the songs were Canadian and if they were drawn from content category 2 (Popular Music) or content category 3.
16. To ensure future compliance, the licensee stated that it had met with the producers of the program in question to review the requirements for logging the musical selections that have been played. The producers have also been made fully aware of the station's regulatory obligations and their music logs will now include all information required to adhere to the Regulations. The licensee also noted that the station had been found in compliance in all other areas related to the broadcast of Canadian musical selections.
17. In light of the above, the Commission finds the licensee in non-compliance with paragraph 2.2(3)(b) of the Regulations.

Regulatory measures

18. 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.

19. The Commission considers that licensees are responsible for the programming they broadcast. Therefore, the licensee's justification for its non-compliance relating to the broadcast of Canadian musical selections from content category 3 is not a sufficient explanation for the non-compliance. However, the licensee has acknowledged responsibility for both instances of non-compliance and has taken appropriate measures to rectify the situation. The Commission is satisfied that the licensee understands the regulatory requirements and that it will bring the station into compliance in the next licence term.
20. A licensee's failure to comply with Canadian music programming requirements may cause harm to the broadcasting system as it deprives Canadian artists of royalties, and also deprives them of airplay, which in turn reduces their exposure to audiences. Further, Canadians are deprived of the opportunity to listen to Canadian music, which runs counter to the objectives of the *Broadcasting Act* with regard to safeguarding, enriching and strengthening the cultural fabric of Canada. It is therefore important for licensees to fulfill their obligations to broadcast specific levels of Canadian musical selections. In order to remedy this harm, the Commission may require licensees to make additional contributions to the system, including Canadian content development (CCD) contributions, as a condition of service.
21. Stingray stated that it did not believe that additional measures are necessary to encourage its ethnic programmers to implement new procedures and was of the view that further measures were not necessary for this particular oversight. However, should the Commission decide otherwise, Stingray indicated that it was prepared to make an additional contribution to FACTOR following the Commission's decision on licence renewal.
22. Given the severity of the non-compliance related to the broadcast of Canadian musical selections drawn from content category 3 and to compensate for the loss to the broadcasting system in the form of a decreased level of exposure and loss of royalties for Canadian artists as a result of the non-compliance, the Commission considers that requiring a one-time additional contribution to CCD of \$998 is appropriate. Of this amount, 60% must be allocated to FACTOR and 40% to Musicaction, and the contribution must be made in the first broadcast year of the new licence term. Accordingly, the Commission **orders** Stingray Radio Inc., by **condition of service**, to make a one-time contribution to CCD as set out above by no later than 31 August 2024.
23. 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 compliance with Canadian content requirements as well as the remedy as part of that process, the Commission considers the Part 1 proceeding sufficient to achieve the purposes of the publication and consultation requirement set out in subsection 11.1(7) of the new *Broadcasting Act* in this case.

24. The Commission further finds it appropriate to renew the licence for the station for a short-term period of five years, which will allow for an earlier review of the licensee's compliance with its regulatory requirements.

Conclusion

25. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language commercial AM radio station CKJR Wetaskiwin, Alberta, from 1 September 2023 to 31 August 2028.

26. 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.

27. In light of paragraphs 1 and 26 of this decision, the Commission has set out **conditions of service** for this licensee 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.

Employment equity

28. Because this licensee is subject to the *Employment Equity Act* and file reports concerning employment equity with the Department of Employment and Social Development (also known as Employment and Social Development Canada), its employment equity practices are not examined by the Commission.

Reminders

29. 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.

Importance of filing radio monitoring materials

30. 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 the Regulations and conditions of service. 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 the requested material in a timely manner, files material that is incomplete or does not file the material at all, affects the ability of the Commission to adequately perform its duty to independently confirm the licensee's adherence to its regulatory

obligations. 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.

Importance of fulfilling Canadian programming requirements

31. A licensee's failure to comply with Canadian music programming requirements may cause harm to the broadcasting system as it deprives Canadian artists of royalties and also deprives them of airplay, which in turn reduces their exposure to audiences. Further, Canadians are deprived of the opportunity to listen to Canadian music, which runs counter to the objectives of the *Broadcasting Act* with regard to safeguarding, enriching and strengthening the cultural fabric of Canada. It is therefore important for licensees to fulfill their obligations to broadcast specific levels of Canadian musical selections.

Numerous, severe or repeated non-compliance

32. Should the licensee continue to be in non-compliance with the regulatory requirements, the Commission may consider recourse to additional measures, including the issuance of a mandatory order, the revocation, non-renewal or suspension of the licence pursuant to sections 9 and 24 of the *Broadcasting Act*.

Local news

33. 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.

34. 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

35. 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

36. 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
- *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 2023-260

Terms, conditions of service and expectations for the English-language commercial radio programming undertaking CKJR Wetaskiwin, Alberta

Terms

The licence will expire 31 August 2028.

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. 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*.²
3. The licensee shall make a one-time contribution to Canadian content development of \$998 by no later than 31 August 2024. Of this amount, 60% shall be allocated to FACTOR and 40% to Musicaction.

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.

² 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 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.