



## Broadcasting Decision CRTC 2023-294

PDF version

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

Ottawa, 28 August 2023

**CFMU Radio Incorporated**  
Hamilton, Ontario

*Public record: 2022-0476-7*

### CFMU-FM Hamilton – Licence renewal

#### Summary

The Commission **renews** the broadcasting licence for the English-language campus radio station CFMU-FM Hamilton, Ontario, 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, CFMU Radio Incorporated (CFMU Radio) filed an application to renew the broadcasting licence for the English-language campus radio station CFMU-FM Hamilton, Ontario, which expires 31 August 2023.<sup>2</sup> The Commission did not receive any interventions in regard to this application.

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

<sup>2</sup> 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 2021-299.

## Apparent non-compliance

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 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.
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, 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.
7. According to Commission records, the annual returns provided to the Commission for the 2019-2020 broadcast year did not include financial statements and form 1411 (survey regarding the implementation of the National Public Alerting System [NPAS]).
8. With respect to the missing financial statements, CFMU Radio stated that a new financial controller started in 2019 and was not aware of the obligation to upload financial statements; the forms requiring all revenues and expenses were filled out, but no official document was uploaded as part of the annual return.
9. With respect to the missing NPAS form 1411, the licensee stated that this was due to a problem related to accessing this particular document and logging into the Commission website.
10. The financial statement and form 1411 for the 2019-2020 broadcast year were completed as of 7 October 2022. The licensee stated that, now that the controller is aware of the process, the financial statement filing will be completed without further issue going forward. Furthermore, the issue with logging onto the Commission's website has been resolved and the licensee is committed to following all regulatory procedures henceforth.
11. In light of the above, the Commission finds the licensee in non-compliance with subsection 9(2) of the Regulations for the 2019-2020 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 regard to the licensee's non-compliance with subsection 9(2) of the Regulations, the Commission notes that the licensee promptly took measures to rectify the situation when it became aware of the issue by providing all of the necessary information and missing documentation. The Commission also acknowledges that the licensee has committed to following all regulatory procedures going forward, and notes that there are no instances of recurring non-compliance. 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 English-language campus radio programming undertaking CFMU-FM Hamilton, Ontario, from 1 September 2023 to 31 August 2030.
15. 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

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.
17. As set out in Broadcasting Regulatory Policy 2010-499, the board of directors of campus radio stations must include a balanced representation from the student body and representation from the administration of the post-secondary institution, station volunteers and the community at large. The Commission reminds the licensee that it must maintain this balanced representation on its board of directors throughout the licence term. To ensure continuity of direction, the Commission encourages the licensee to establish positions on its board of directors with terms of more than one year.

18. The Commission also reminds the licensee that it must comply at all times with the *Direction to the CRTC (Ineligibility of non-Canadians)*.<sup>3</sup>

### **Annual returns and financial statements**

19. 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.

### **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**

- *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 campus and community radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2021-299, 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
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011

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<sup>3</sup> SOR/97-192, 8 April 1997

- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010
- *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 2023-294**

### **Terms, conditions of service, expectations and encouragement for the English-language campus radio programming undertaking CFMU-FM Hamilton, 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 *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 conditions 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>4</sup>

#### **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 documentation may be submitted through the Commission's website.

#### **Encouragement**

The Commission considers that community 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.

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<sup>4</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*.