



## Broadcasting Decision CRTC 2023-296

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Reference: Part 1 licence renewal application posted on 27 October 2022

Ottawa, 28 August 2023

**Radio 1540 Limited**  
Toronto, Ontario

*Public record: 2022-0625-0*

### CHIN-1-FM Toronto – Licence renewal

#### Summary

The Commission **renews** the broadcasting licence for the commercial ethnic specialty radio station CHIN-1-FM Toronto, 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,<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, Radio 1540 Limited filed an application to renew the broadcasting licence for the commercial ethnic specialty radio station CHIN-1-FM Toronto, Ontario, which expires 31 August 2023. The Commission did not receive any interventions in regard to this application.

#### Apparent 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 *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

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

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 2017-136, the Commission approved an application by Radio 1540 Limited for a broadcasting licence to operate a new commercial ethnic specialty FM radio station to serve Toronto, which would launch as CHIN-1-FM. Consistent with a proposal by Radio 1540 Limited to make a \$105,000 contribution to Canadian content development (CCD) 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 the appendix to Broadcasting Decision 2017-136:
  4. 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 \$15,000 (\$105,000 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 regard to condition of service 4, Commission records show that the licensee incurred a CCD contribution shortfall of \$15,000 for the 2017-2018 broadcast year.
9. The licensee indicated that basic CCD payments are calculated based on the previous year's revenues and, because of this, it mistakenly concluded that similar rules would apply to the over-and-above CCD contributions that it is required to make. As a result, the licensee's first payment was made in year 2 of the station's operation.

10. The licensee submitted that it has an established process overseen by its ownership team for ensuring that all of its stations meet their CCD commitments. Based on this process, with the exception of the delay of the initial CCD payment, the licensee submitted that CHIN-1-FM has been meeting its CCD commitments.
11. In light of the above, the Commission finds the licensee in non-compliance with condition of service 4 set out in the appendix to Broadcasting Decision 2017-136.

### **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 the present case, the Commission notes that the licensee rectified the CCD shortfall and provided proof of the payments as soon as it learned of the shortfall. The Commission therefore finds that the imposition of further corrective measures is not necessary.

### **Remaining CCD contributions**

14. As set out in Broadcasting Decision 2017-136, Radio 1540 Limited committed to make an annual contribution of \$15,000 over seven consecutive years, for a total \$105,000, to CCD, in addition to the basic annual contribution to CCD set out in section 15 of the Regulations. The Commission imposed this commitment under condition 4 in the appendix to Broadcasting Decision 2017-136.
15. Based on the original payment schedule set out in that condition, the licensee will have fulfilled its over-and-above CCD contribution requirement by the end of the 2023-2024 broadcast year, after which it will only be subject to the basic annual CCD contribution requirement set out in the Regulations. Accordingly, the licensee will be subject to the condition that the Commission originally imposed on the licensee in Broadcasting Decision 2017-136, but with modifications that reflect the remaining broadcast year during which the licensee must make an over-and-above CCD contribution. This **condition of service** is set out in the appendix to this decision.

### **Conclusion**

16. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial ethnic specialty radio programming undertaking CHIN-1-FM Toronto, Ontario, from 1 September 2023 to 31 August 2030.
17. 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** 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**

18. 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 contributions**

19. 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.
20. 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 regulatory obligations.

## **Local news**

21. 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.
22. 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**

23. 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**

24. 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
- *Ethnic FM radio station in Toronto and licence amendment for CHIN Toronto*, Broadcasting Decision CRTC 2017-136, 5 May 2017
- *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 2023-296

### Terms, conditions of service, expectations and encouragement for the commercial ethnic specialty radio programming undertaking CHIN-1-FM Toronto, 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 of service 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>2</sup>
3. The licensee shall operate the station 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. With respect to the station's 84 hours of original, local programming in each broadcast week:
  - (a) 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 at least 10% of the musical selections from content category 3 (Special Interest Music) broadcast during ethnic programming periods in each broadcast week to Canadian selections.
  - (b) 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.
  - (c) The licensee shall devote at least 80% of the programming broadcast each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.

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<sup>2</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 regulations 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*.

- (d) In each broadcast week, the licensee shall provide programming directed to at least 15 distinct ethnic groups in at least 7 different languages.

For the purposes of this condition of service, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as those set out in the *Radio Regulations, 1986*.

5. 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 a contribution of \$15,000 to the promotion and development of Canadian content in the 2023-2024 broadcast year. This additional CCD contribution shall be allocated to parties and initiatives that fulfill the criteria for eligible initiatives 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 2024** and shall do so in a form deemed acceptable by the Commission.

## **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.