



## Broadcasting Decision CRTC 2010-329

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Route reference: 2009-793

Ottawa, 31 May 2010

**Robert G. Hopkins**  
Tagish, Yukon

*Application 2009-0499-7, received 16 March 2009*

### **CFET-FM Tagish – Licence renewal**

*The Commission **renews** the broadcasting licence for the low-power, English-language commercial radio station CFET-FM Tagish from 1 June 2010 to 31 August 2011. This short-term renewal will enable the Commission to review at an earlier date the licensee's compliance with the Radio Regulations, 1986 and its conditions of licence, as well as with its commitment relating to local programming.*

### **Introduction**

1. The Commission received an application by Robert G. Hopkins (Hopkins) to renew the broadcasting licence for the low-power, English-language commercial radio programming undertaking CFET-FM Tagish, which expires 31 May 2010.<sup>1</sup>
2. In Broadcasting Notice of Consultation 2009-793, the Commission noted that the licensee may have failed to comply with section 9(2) of the *Radio Regulations, 1986* (the Regulations) relating to the filing of annual returns for the broadcast years 2003 through 2008. The Commission also noted that Hopkins may have failed to comply with its condition of licence relating to Canadian talent development (CTD) contributions for the same broadcast years.<sup>2</sup> Finally, the Commission stated that it would review the licensee's plans relating to locally produced programming.
3. The Commission received interventions in support of this application, as well as an intervention commenting on the application from Stillwater Broadcasting Ltd. (Stillwater). The interventions and the licensee's reply to the intervention from Stillwater can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

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<sup>1</sup> The current licence was administratively renewed from 1 January to 31 May 2010 and from 1 September to 31 December 2009 in Broadcasting Decisions 2009-785 and 2009-506.

<sup>2</sup> The Commission notes that the licensee may also have failed to comply with both the filing of annual returns and its condition of licence relating to Canadian content development for the 2009 broadcast year. This information was not available when the application was originally announced in Broadcasting Notice of Consultation 2009-793.

## **Commission's analysis and determinations**

4. After examining the application in light of applicable regulations and policies and taking into account the interventions received and the licensee's reply, the Commission considers that the issues to be addressed in its determinations relate to the following:
  - the provision of annual returns;
  - contributions to CTD; and
  - the provision of local programming.

### **Provision of annual returns**

5. Stillwater requested that the Commission issue a mandatory order requiring the completion of all outstanding paperwork related to CFET-FM. In reply, the licensee stated that it did not believe that there was any outstanding paperwork required by either the Commission or the Department of Industry.
6. As set out in section 9(2) of the Regulations:

On or before November 30 of each year, a licensee shall submit to the Commission a statement of accounts, on the annual return of broadcasting licensee form, for the year ending on the previous August 31.
7. The Commission notes that annual returns for CFET-FM were not filed for the 2003 and 2004 broadcast years and that for the broadcast years 2005 through 2009, the licensee did not file the required completed financial statements or the required CTD forms. The Commission further notes that for the broadcast years 2005 through 2009, the incomplete returns were filed after the 30 November deadline. The Commission considers that the above constitute non-compliances with the licensee's requirements relating to the provision of annual returns and consequently that a short-term renewal period for CFET-FM would be appropriate.

### **Contributions to Canadian talent development**

8. As stated in CFET-FM's original licensing decision (Broadcasting Decision 2002-273), the station is subject to the conditions of licence set out in Public Notice 1999-137, which include a condition of licence relating to CTD contributions. CFET-FM's required annual contribution for the broadcast years 2003 through 2008 was \$400, whereas for the 2009 broadcast year it was \$500. The unmet contributions represent a total shortfall in the licensee's required CTD and Canadian content development (CCD)<sup>3</sup> contributions of \$2,900.

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<sup>3</sup> As set out in Broadcasting Public Notice 2006-158, the Commission has replaced the expression "Canadian talent development" (CTD) with "Canadian content development" (CCD).

9. The Commission notes that ever since CFET-FM went on air in 2003, the licensee has not filed the required documentation relating to either CTD or CCD contributions, including proof of payment.
10. The licensee stated that contributions of \$1,000 were made for each of the 2003 and 2004 broadcast years, whereas contributions of \$500 were made for each of the broadcast years 2005 through 2008. It indicated that these contributions went to the BYTE Class International Association and that during this period, it met weekly with students at an accredited Yukon training facility for broadcasting lessons (Polarcom) in a classroom designed for broadcast training and taught hands-on techniques to script, record and broadcast spoken word programming in both English and Spanish. Hopkins further noted that students reviewed cultural events happening around the Yukon.
11. The Commission notes that in addition to proof of payment of CFET-FM's required CTD contributions for CFET-FM not being filed with the Commission, the initiative described by the licensee does not constitute an eligible CTD initiative according to the criteria established by the Commission.
12. Finally, in a letter dated 21 October 2009, the licensee indicated that its CCD contribution for the 2009 broadcast year was paid after that broadcast year. As set out in the Regulations, licensees are required to complete payment of their CTD/CCD contributions for a specific broadcast year by the end of that broadcast year, that is, 31 August.
13. The Commission considers that the above constitute non-compliances with the licensee's CTD and CCD requirements and that consequently a short-term renewal for CFET-FM would be appropriate. Furthermore, the Commission considers it appropriate to require the licensee to submit, within 60 days of the date of this decision, a report that details the proof of payment of the shortfall in its required CTD/CCD contributions and that reflects that this shortfall has been directed to eligible CCD initiatives.

**Provision of local programming**

14. In its intervention, Stillwater also requested that the Commission issue a mandatory order requiring the licensee to adhere to its commitment to produce a minimum of 44 hours of local programming per broadcast week. In reply, the licensee stated that it took full responsibility for not doing any local programming for some time.
15. In Broadcasting Public Notice 2006-158, the Commission stated that licensees are required, in their licence renewal applications, to address local programming and describe how the service they provide meets the particular needs and interests of their local communities. As set out in that public notice, local programming  
  
includes programming that originates with the station or is produced separately and exclusively for the station. It does not include programming received from another station and rebroadcast simultaneously or at a later time; nor does it include network or syndicated programming that is five minutes or longer unless it is produced either by the station or in the local community by arrangement with the station.

16. The Commission notes that licensees must incorporate in their local programming spoken word material of direct and particular relevance to the community served. This must include local news, weather, sports coverage and the promotion of local events and activities.
17. In Broadcasting Decision 2002-273, Hopkins proposed to broadcast 44 hours of local programming in each broadcast week, including local news and weather, public service announcements and programs featuring the First Nations peoples and the history of the area. It appears, however, that CFET-FM has not broadcast any local programming since April 2006, but has instead rebroadcast exclusively the programming of the English-language commercial radio station CFMI-FM New Westminster, British Columbia.
18. In a letter dated 18 September 2009, Hopkins stated that CFET-FM has been operating as a rebroadcasting transmitter of CFMI-FM since 2006. The Commission notes, however, that the licensee in its licence renewal application reiterated its commitment to broadcast a minimum of 44 hours of local programming in each broadcast week for the next licence term and noted that the remaining 82 hours would consist of programming originating from CFMI-FM. Nevertheless, given the absence since 2006 of local service that was to be provided by CFET-FM to Tagish, the Commission considers that a short-term renewal for the station would be appropriate, during which time it would be able to closely monitor the licensee's performance in order to determine whether it is providing a satisfactory amount, if any, of local programming to Tagish. Furthermore, the Commission considers it appropriate to require the licensee to submit, within 60 days of the date of this decision, a report detailing its plans to broadcast local programming at Tagish, including the range and type of local content to be offered.

## **Conclusion**

19. In Circular No. 444, which sets out the Commission's practices regarding non-compliance by radio licensees, the Commission notes that when a station is found to be operating in non-compliance, it is normally granted a short-term licence renewal, generally for four years, to permit a review of its compliance within a reasonable period of time. However, the Commission considers the present case to be of particular concern and finds that due to the scope and severity of the licensee's non-compliance with the Regulations and its conditions of licence and its lack of local programming, it would be appropriate to renew the broadcasting licence for CFET-FM for a short-term period of two years.
20. In light of all of the above, the Commission **renews** the broadcasting licence for the low-power, English-language commercial radio programming undertaking CFET-FM Tagish from 1 June 2010 to 31 August 2011, i.e. two years from the original expiry date of 31 August 2009. This short-term renewal will enable the Commission to assess, at an earlier date, the licensee's compliance with the Regulations and its conditions of licence, as well as with its commitment relating to local programming. The licence will be subject to the **conditions** set out in Broadcasting Regulatory Policy 2009-62.

21. In addition, the Commission **directs** the licensee to submit, no later than **30 July 2010**, a report that details the proof of payment of the shortfall in its required CTD/CCD contributions of \$2,900 and that reflects that this shortfall has been directed to eligible CCD initiatives.
22. Finally, the Commission **directs** the licensee to submit, no later than **30 July 2010**, a report detailing its plans to broadcast local programming at Tagish, including the range and type of local content to be offered.

### **Encouragement**

In accordance with Public Notice 1992-59, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

Secretary General

### **Related documents**

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2009-793, 21 December 2009
- *Administrative renewals*, Broadcasting Decision CRTC 2009-785, 17 December 2009
- *Administrative renewals*, Broadcasting Decision CRTC 2009-506, 20 August 2009
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *New low-power FM station in Tagish*, Broadcasting Decision CRTC 2002-273, 5 September 2002
- *Practices regarding radio non-compliance*, Circular No. 444, 7 May 2001
- *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

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