



## Broadcasting Decision CRTC 2011-150

PDF version

Route reference: 2010-334

Additional reference: 2010-334-2

Ottawa, 4 March 2011

### **Rogers Broadcasting Limited**

Edmonton, Fort McMurray and Tar Island, Alberta

*Applications 2010-0257-6 and 2010-0272-4, received 12 February 2010*

### **CHDI-FM Edmonton and CJOK-FM Fort McMurray and its transmitter CJOK-FM-1 Tar Island – Licence renewals**

*The Commission renews the broadcasting licences for the English-language commercial radio stations CHDI-FM Edmonton and CJOK-FM Fort McMurray and its transmitter CJOK-FM-1 Tar Island from 1 April 2011 to 31 August 2017.*

#### **Introduction**

1. The Commission received applications by Rogers Broadcasting Limited (Rogers) to renew the broadcasting licences for the English-language commercial radio programming undertakings CHDI-FM Edmonton and CJOK-FM Fort McMurray and its transmitter CJOK-FM-1 Tar Island, which expire 31 March 2011.<sup>1</sup>
2. In Broadcasting Notice of Consultation 2010-334, the Commission noted that the licensee may have failed to make its Canadian content development (CCD) contributions for CHDI-FM and CJOK-FM in the 2008-2009 broadcast year, as required under section 15(2) of the *Radio Regulations, 1986* (the Regulations). The Commission also indicated that the licensee was in apparent non-compliance with CHDI-FM's condition of licence concerning Canadian talent development (CTD) contributions for the broadcast years 2005-2006 to 2007-2008.
3. The Commission received interventions in support of the applications. Rogers also took the opportunity offered by the intervention process to make its views known to the Commission regarding its interpretation of section 15(3) of the Regulations and to request that the Commission clarify this issue. Accordingly, in Broadcasting Notice of Consultation 2010-334-1, the Commission announced that it had decided to make Rogers' comments public and extend the intervention period to allow interested parties to comment on this matter. The Commission notes that it received comments in support of Rogers'

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<sup>1</sup> The licences were administratively renewed from 1 September to 30 November 2010 and 1 December 2010 to 31 March 2011 in Broadcasting Decisions 2010-635 and 2010-880.

interpretation of the Regulations. The public record for the proceeding can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

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

### **Contributions to Canadian content development (CJOK-FM and CHDI-FM)**

4. Sections 15(2) and (3) of the Regulations state:

(2) Except as otherwise provided under a condition of its licence that refers expressly to this subsection and subject to subsection (3), an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a commercial station or ethnic station shall contribute the following amount annually to eligible initiatives:

(a) if the licensee's total revenues are less than \$625,000, \$500;

(b) if the licensee's total revenues are at least \$625,000 but not more than \$1,250,000, \$1,000; and

(c) if the licensee's total revenues are more than \$1,250,000, \$1,000 plus one half of one percent of those revenues that are in excess of \$1,250,000.

(3) If a condition of licence imposed prior to June 1, 2007 requires the licensee to make a contribution to the development of Canadian content or Canadian talent that is other than that referred to in subsection (2), the amount that the licensee is required to contribute under that subsection is reduced by the amount that the licensee is required to contribute under the condition of its licence.

5. The Commission notes that prior to the coming into effect of the new CCD regime in the 2008-2009 broadcast year, all obligations regarding CTD were imposed by condition of licence. Contributions were based on the Canadian Association of Broadcasters' (CAB) former CTD plan (Public Notice 1995-196), as well as any additional amount according to a licensee's conditions of licence. Starting in the 2008-2009 broadcast year, obligations with respect to CTD that had been imposed by conditions of licence were maintained. However, the new CCD regime also came into effect, triggering the application of sections 15(2) and (3) of the Regulations.

6. The Commission agrees with Rogers that as of the 2008-2009 broadcast year, if a licensee had to pay a basic annual CCD contribution under section 15(2) in addition to its CTD contribution under section 15(3), the licensee could reduce the contribution it had to pay under section 15(2) by the amounts that it was required to contribute under its conditions of licence, regardless of whether these contributions flowed from the CAB CTD plan and/or individual CTD commitments.

7. The Commission confirms that Rogers has duly paid in full the amount owed under section 15(2) of the Regulations for its stations CJOK-FM and CHDI-FM.

### **Contributions to Canadian talent development (CHDI-FM)**

8. The Commission notes that the licensee's apparent non-compliance with CHDI-FM's condition of licence concerning CTD for the broadcast years 2005-2006 to 2007-2008 was due to the interpretation of this condition as it pertains to its contributions under the CAB CTD plan for those years. Following a letter from Rogers dated 7 September 2010 explaining the calculations related to its CTD condition of licence, the Commission confirms that the licensee duly paid in full the amount owed under CHDI-FM's condition of licence concerning CTD for the broadcast years 2005-2006 to 2007-2008.

### **Conclusion**

9. In light of the licensee's compliance with its conditions of licence and regulatory obligations, the Commission **renews** the broadcasting licences for the English-language commercial radio programming undertakings CHDI-FM Edmonton and CJOK-FM Fort McMurray and its transmitter CJOK-FM-1 Tar Island from 1 April 2011 to 31 August 2017. The terms and **conditions of licence** are set out in the appendix to this decision.

### **Outstanding tangible benefits**

10. In Broadcasting Decision 2006-651, the Commission approved an application by Rogers to acquire the assets of CHDI-FM Edmonton and CJOK-FM Fort McMurray and its transmitter CJOK-FM-1 Tar Island, as well as other radio programming undertakings. In that decision, Rogers proposed a tangible benefits package of \$2.4 million over seven consecutive years, of which \$717,120 was to be allocated by CHDI-FM and \$440,640 by CJOK-FM. The Commission expects Rogers to honour its commitments relating to the fulfillment of the remaining tangible benefits flowing from this ownership transaction.

### **Employment equity**

11. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

### **Related documents**

- *Administrative renewals*, Broadcasting Decision CRTC 2010-880, 26 November 2010
- *Administrative renewals*, Broadcasting Decision CRTC 2010-635, 30 August 2010
- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2010-334, 1 June 2010
- *CHDI-FM and CKER-FM Edmonton, CJOK-FM and CKYX-FM Fort McMurray and its transmitter CJOK-FM-1 Tar Island, CFGP-FM Grande Prairie and its*

*transmitters CFGP-FM-1 Peace River and CFGP-FM-2 Tumbler Ridge –  
Acquisition of assets, Broadcasting Decision CRTC 2006-651, 29 November 2006*

- *Contributions by radio stations to Canadian talent development – A new approach,  
Public Notice CRTC 1995-196, 17 November 1995*

## Appendix 1 to Broadcasting Decision CRTC 2011-150

### Conditions of licence for the commercial radio programming undertaking CHDI-FM Edmonton

1. The licence will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. In addition to the Canadian content development contributions required under section 15(2) of the *Radio Regulations, 1986*, the licensee shall make a contribution of \$67,000 in the 2010-2011 broadcast year and \$45,365 in the 2011-2012 broadcast year to the promotion and development of Canadian content.

This 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.

3. As an exception to the requirements set out in subsection 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations) and subject to subsection 2.2(6) of the Regulations, the licensee shall devote 40% or more of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety:
  - a) during each broadcast week; and
  - b) between 6 a.m. and 6 p.m. in any period beginning on a Monday and ending on Friday of the same week.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meaning as that set out in the Regulations.

## **Appendix 2 to Broadcasting Decision CRTC 2011-150**

### **Condition of licence for the commercial radio programming undertaking CJOK-FM Fort McMurray and its transmitter CJOK-FM-1 Tar Island**

1. The licence will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.