



Broadcasting Decision CRTC 2011-551

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Route reference: 2011-188

Ottawa, 31 August 2011

Way of Life Broadcasting
Dryden, Ontario

Application 2011-0326-7, received 11 February 2011
Public hearing in the National Capital Region
17 May 2011

CJIV-FM Dryden – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language, low-power commercial specialty radio station CJIV-FM Dryden from 1 September 2011 to 31 August 2013. This short-term licence renewal will allow for an earlier review of the licensee's compliance with the Radio Regulations, 1986, as well as with its commitment to the provision of local programming.*

Introduction

1. The Commission received an application by Way of Life Broadcasting (Way of Life) to renew the broadcasting licence for the English-language, low-power commercial specialty radio programming undertaking CJIV-FM Dryden, which expires 31 August 2011. The Commission did not receive any interventions in connection with this application.
2. In Broadcasting Notice of Consultation 2011-188, the Commission stated that the licensee was in apparent non-compliance with section 9(4) of the *Radio Regulations, 1986* (the Regulations), which relates to the filing of information requested by the Commission, as well as with sections 8(5) and 8(6), which relate to the provision of complete logger tapes. It further stated that it would be reviewing the licensee's plans relating to the broadcast of local programming. In that notice, the Commission also stated that, in Broadcasting Decision 2010-325, it had renewed the station's licence for a two-year term, due to the scope and severity of the licensee's non-compliance with the Regulations as they relate to the provision of annual returns and with its condition of licence relating to Canadian talent development contributions, and due to the absence of local programming of particular relevance to listeners in Dryden.
3. The Commission called the licensee to a hearing to inquire into these matters. At the hearing, the Commission expected the licensee to show cause as to why mandatory orders pursuant to section 12(2) of the *Broadcasting Act* (the Act) should not be

issued requiring the licensee to comply with sections 8(5), 8(6) and 9(4) of the Regulations.

Commission's analysis and determinations

4. After examining the application in light of applicable regulations and policies, the Commission considers that the issues to be addressed in its determinations relate to the following:
 - the filing of information requested by the Commission, further to section 9(4) of the Regulations;
 - the provision of a complete machine readable record of the matter broadcast, further to sections 8(5) and 8(6) of the Regulations;
 - the provision of local programming; and
 - the broadcast of U.S. programming.

Filing of requested information

5. Section 9(4) of the Regulations specifies that “at the request of the Commission, a licensee shall provide the Commission with a response to any inquiry regarding the licensee’s programming, ownership or any other matter within the Commission’s jurisdiction that relates to the licensee’s undertaking.”
6. In Broadcasting Decision 2010-325, the Commission directed Way of Life to file a report detailing its plans to broadcast local programming in Dryden by no later than 27 July 2010. The licensee did not file the report as directed by the Commission. When questioned at the hearing about the reasons for this non-compliance, the licensee indicated that this failure was due to inexperience and its lack of understanding of its obligations and responsibilities as a broadcaster. Way of Life indicated that it would keep up to date on the Commission’s website and that it would regularly read its emails in order to make sure that it is fully aware of its obligations. The Commission notes that the licensee has now filed the requested report.
7. The Commission notes the licensee’s explanation of the circumstances surrounding its current non-compliance. The Commission reminds Way of Life that licensees hold sole responsibility for ensuring compliance with all of the regulations, including those pertaining to the Commission’s directions and requirements.

Provision of a complete machine readable record of the matter broadcast

8. The Commission reviewed the station’s programming for the broadcast week of 30 January to 5 February 2011 and found that approximately 44 hours were missing from the machine readable record of the matter broadcast between 3 and 5 February 2011. The submission of an incomplete machine readable record of the matter broadcast represents a failure to comply with sections 8(5) and 8(6) of the Regulations.

9. Way of Life acknowledged that the machine readable record of the matter broadcast sent to the Commission was deficient and assured the Commission that it was in the process of purchasing a new logger program. In the meantime, it indicated that station staff would monitor the recording process closely in order to avoid any further lapses in its recordings.
10. The Commission notes Way of Life's admitted non-compliance regarding the filing of a complete machine readable record of the matter broadcast and the measures that it proposes to take to address the situation. The Commission reminds the licensee that the submission of a complete and accurate machine readable record of the matter broadcast as required under section 8 of the Regulations is a fundamental requirement of all radio stations. Access to a proper machine readable record of the matter broadcast is extremely important since it allows the Commission to monitor programming broadcast by the station and investigate and verify a station's compliance with its conditions of licence and the Regulations, as well as any complaints.

Provision of local programming

11. 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.
12. 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.
13. In Broadcasting Decision 2010-325, the Commission indicated that it would review CJIV-FM's performance in order to determine if it was providing a satisfactory amount of local programming to the residents of Dryden. An analysis of CJIV-FM's program logs for the week of 30 January to 5 February 2011 revealed that the station aired approximately 62 hours of local programming, which consisted of musical selections, weather reports and community bulletin board segments. Moreover, the analysis revealed that the licensee did not broadcast any local news during that week.
14. In its renewal application, Way of Life made a commitment to broadcast a minimum of eight hours of local programming per broadcast week. Initially, the licensee indicated that local programming would consist solely of weather reports and community bulletin boards. However, in a letter dated 24 March 2011, Way of Life indicated that, in addition to its current local programming commitment, it would

offer an additional 1.3 hours of local news, sports and weather combined and locally produced spoken word segments entitled “Canadian Moments,” as well as 67 hours of musical selections.

15. In response to the Commission’s request at the hearing that the licensee provide the number of hours devoted to local programming, Way of Life submitted letters dated 24 May and 31 May 2011 indicating that the station was at that time providing 89.65 hours of local programming each week, including 1.3 hours of local news, sports and weather combined with approximately one hour of community bulletin board announcements.
16. At the hearing, Way of Life confirmed that 50% of its weekly combined offering of news, weather and sports would be devoted to local news. Furthermore, the licensee confirmed that its locally produced Canadian Moments segments would be five minutes in duration and broadcast twice daily on weekends.
17. The Commission finds that Way of Life has not met the policy objectives of the Commission’s local programming policy, given the absence of local news programming during the last licence term. However, the Commission notes the licensee’s commitment to provide, each broadcast week, 1.3 hours of local news, sports and weather over the new licence term. The Commission has indicated that the provision of locally oriented and relevant programming to the community is an important element of the local programming policy, and stresses the importance of this station providing locally oriented spoken word material, particularly local news, to its listeners in Dryden. The Commission will closely monitor the licensee’s performance in order to determine whether it is providing a satisfactory amount of local programming and local news to Dryden over the next licence term.

Broadcast of U.S. programming

18. In Broadcasting Decision 2010-325, the Commission noted its concern regarding the licensee’s heavy reliance on U.S. programming, specifically, U.S. syndicated programs. In a letter dated 14 March 2011, Way of Life indicated that it was currently broadcasting 55 hours of non-Canadian syndicated programming each week.
19. At the hearing, the licensee confirmed that most if not all of its non-Canadian syndicated programming is sourced from the U.S. It further clarified that it had mistakenly included the period between 12:00 a.m. and 6:00 a.m. in its calculation of its U.S. programming. As a result, it overestimated the actual amount of U.S. programming being broadcast during the broadcast week.
20. Way of Life also assured the Commission that it would include more Canadian programs in its programming schedule as they became available. Furthermore, in response to the Commission’s request at the hearing that the licensee provide a breakdown in the number of hours devoted to Canadian and U.S. syndicated programming, Way of Life submitted a letter dated 24 May 2011 indicating that, on average, 14.80 hours and 21.55 hours of Canadian and U.S. syndicated programming, respectively, are broadcast each broadcast week.

21. The Commission notes the measures taken by Way of Life to increase the amount of Canadian programming broadcast on CJIV-FM, and encourages the licensee to increase its Canadian programming offering as it becomes available.

Conclusion

22. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to dealing with radio stations found in non-compliance. The Commission noted in particular that each instance of non-compliance will be evaluated in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also noted that it will consider the circumstances leading to the non-compliance in question, the licensee's arguments, and the measures taken to rectify the situation.
23. The Commission also indicated that the possible sanctions include the following: short-term licence renewal, imposition of conditions of licence, mandatory orders, or the non-renewal or suspension of the licence.
24. In the present case, the Commission is satisfied with the licensee's explanation of the circumstances surrounding its current non-compliances and with the measures outlined by the licensee to ensure future compliance with its regulatory obligations. Accordingly, the Commission does not consider it necessary to issue mandatory orders pursuant to section 12(2) of the Act requiring the licensee to comply with sections, 8(5) 8(6) and 9(4) of the Regulations.
25. However, in accordance with its revised practice regarding radio non-compliance set out in Broadcasting Information Bulletin 2011-347, the Commission considers that a short-term renewal period for CJIV-FM would be appropriate. Accordingly, the Commission **renews** the broadcasting licence for the English-language, low-power commercial specialty radio programming undertaking CJIV-FM Dryden from 1 September 2011 to 31 August 2013. This short-term renewal will allow for an earlier review of the licensee's compliance with the Regulations and its commitment to the provision of local programming, specifically its local news offerings. The licence will be subject to the **conditions of licence** set out in the appendix to this decision.

Secretary General

Related documents

- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2011-188, 16 March 2011
- *CJIV-FM Dryden – Licence renewal*, Broadcasting Decision CRTC 2010-325, 28 May 2010

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

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

Appendix to Broadcasting Decision CRTC 2011-551

Term, conditions of licence and encouragement

Term

The licence will be in effect from 1 September 2011 to 31 August 2013.

Conditions of licence

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, with the exception of condition of licence 7.
2. The station shall be operated within the specialty format as defined in *A Review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
3. A minimum of 95% of all musical selections broadcast during each broadcast week shall be devoted to selections drawn from subcategory 35 (Non-classic religious).
4. The licensee shall ensure that a minimum level of 15% of musical selections from category 3 (Special Interest Music) broadcast during each broadcast week is devoted to Canadian selections.
5. The licensee shall not broadcast commercial messages.
6. The licensee shall adhere to the guidelines on ethics for religious programming as set out in section IV of *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, as amended from time to time.

Encouragement

Employment equity

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 issues in its hiring practices and in all other aspects of its management of human resources.