



Broadcasting Decision CRTC 2012-582

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Additional reference: 2012-224-1

Ottawa, 22 October 2012

Wesley United Church Radio Board
St. John's, Newfoundland and Labrador

Application 2012-0195-4, received 21 February 2012
Public hearing in the National Capital Region
19 June 2012

VOWR St. John's – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language religious radio station VOWR St. John's from 1 December 2012 to 31 August 2015. This short-term licence renewal will allow for an earlier review of the licensee's compliance with the regulatory requirement relating to the filing of annual returns set out in the Radio Regulations, 1986.*

Introduction

1. The Commission received an application by Wesley United Church Radio Board (Wesley) to renew the broadcasting licence for the English-language religious radio programming undertaking VOWR St. John's, which expires 1 December 2012.¹ The Commission received joint interventions in support of this application.
2. In Broadcasting Notice of Consultation 2012-224, the Commission noted that the licensee may have failed to comply with section 9(2) of the *Radio Regulations, 1986* (the Regulations) concerning the filing of annual returns for the 2008-2009, 2009-2010 and 2010-2011 broadcast years, as well as section 9(4) of the Regulations concerning the provision of a response to any request for information made by the Commission regarding a licensee's undertaking. Specifically, the licensee failed to file the application to renew its broadcasting licence on time.
3. In Broadcasting Decision 2008-355, the station was granted a four-year short-term licence renewal until 31 August 2012, based on its failure to comply with section 9(2) of the Regulations relating to the filing of annual returns for the 2000-2001 to 2004-2005 and 2006-2007 broadcast years.

¹ The current licence was administratively renewed from 1 September to 30 November 2012 in Broadcasting Decision 2012-341.

Commission's analysis and decisions

4. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address relate to the following:
 - the filing of annual returns; and
 - the provision of a response to Commission requests for information.

Filing of annual returns

5. Section 9(2) of the Regulations requires licensees to file their annual returns on or before 30 November of a given year for the broadcast year ending the previous 31 August. According to the Commission's records, the licensee filed the following annual returns after the 30 November deadline:
 - for the 2008-2009 broadcast year, the licensee's annual return was filed on 9 February 2010;
 - for the 2009-2010 broadcast year, the licensee's annual return was filed on 20 January 2011; and
 - for the 2010-2011 broadcast year, the licensee's annual return was filed on 10 December 2011.
6. In addition to filing its annual returns past the 30 November deadline for the above-noted broadcast years, the licensee failed to include its financial statements. Therefore the licensee's annual returns, although received, were incomplete for the above-noted broadcast years. The requirements for the filing of financial statements with the broadcasting annual return are set out in Circular No. 404.
7. The licensee indicated that the station is entirely dependent on the work of volunteers, and that it is difficult to replace volunteers who leave the station with similarly qualified individuals. It submitted that it has been endeavouring to meet deadlines, and that the 2010-2011 annual return was filed only 10 days late. Furthermore, it stated that it intends to assign the responsibility of filing annual returns and financial statements to one individual.
8. The Commission notes the licensee's explanation of the circumstances surrounding its current non-compliance; however, the Regulations clearly set out the information required and the deadline for the filing of annual returns. Accordingly, the Commission finds that the licensee has failed to comply with section 9(2) of the Regulations for the 2008-2009, 2009-2010 and 2010-2011 broadcast years for a second consecutive licence term.
9. The Commission also notes the licensee's commitment to implement measures to ensure compliance going forward. The Commission reminds Wesley that licensees

hold sole responsibility for ensuring compliance with all of their regulatory obligations and expects the licensee to take the steps necessary to bring itself into compliance.

10. The Commission notes that it has not yet received the financial statements for the 2008-2009, 2009-2010 and 2010-2011 broadcast years. Accordingly, the Commission directs the licensee to file these financial statements by no later than 31 December 2012.

Provision of a response to Commission requests for information

11. Section 9(4) of the Regulations requires licensees to provide a response to Commission requests for information on various matters relating to the licensee's undertaking including programming, ownership, financial affairs and adherence to its regulatory obligations. The Commission requested that the licensee file VOWR's licence renewal application no later than 25 January 2012. However, the application was only received on 21 February 2012.
12. The licensee explained that the undertaking is administered entirely by volunteers, and that the resignation of a number of volunteers created difficulty in providing the application by the required deadline.
13. The Commission notes the licensee's explanation relating to the late filing of the renewal application. However, the Commission reminds the licensee of the importance of responding to Commission requests for information in a timely manner and notes that the late filing of a licence renewal application puts at risk the existence of the undertaking. In this case, Wesley filed its application almost one month late, and while the Commission recognizes that the station relies entirely on a volunteer workforce, it does not negate the licensee's responsibility to operate its radio station in compliance with all its regulatory obligations. The Commission therefore finds that the licensee has failed to comply with section 9(4) of the Regulations. The Commission encourages the licensee to review its oversight mechanisms with a view to bringing itself into compliance in the future.

Conclusion

14. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to dealing with radio stations found in non-compliance with their regulatory obligations and conditions of licence. 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. The Commission further 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.

15. 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 VOWR St. John's would be appropriate. Accordingly, the Commission **renews** the broadcasting licence for the English-language religious radio programming undertaking VOWR St. John's from 1 December 2012 to 31 August 2015, three years from the original expiry date of 31 August 2012. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

Related documents

- *Administrative renewals*, Broadcasting Decision CRTC 2012-341, 22 June 2012
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2012-224, 18 April 2012, as amended by *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2012-224-1, 11 May 2012
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *VOWR St. John's – Licence renewal*, Broadcasting Decision CRTC 2008-355, 16 December 2008
- *Requirements for the Filing of Financial Statements with the Broadcasting Annual Return*, Circular 404, 23 August 1994

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

Appendix to Broadcasting Decision CRTC 2012-582

Term, conditions of licence and encouragement

Term

The licence will expire 31 August 2015.

Conditions of licence

1. The licensee shall adhere 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. The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), in any broadcast week where at least 90% of musical selections from content category 2 that it broadcasts are selections released before 1 January 1981:
 - a) in that broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety; and
 - b) between 6 a.m. and 6 p.m., in the period beginning on Monday of that week and ending on Friday of the same broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

The licensee will also be responsible for specifying, on the music lists it provides to the Commission, the year of release for all musical selections it broadcasts.

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.

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.