



Broadcasting Decision CRTC 2015-383 and Broadcasting Orders CRTC 2015-384, 2015-385, 2015-386, 2015-387, 2015-388, 2015-389 and 2015-390

PDF version

Reference: 2015-84

Ottawa, 21 August 2015

902890 Alberta Ltd.
Wetaskiwin, Alberta

*Application 2014-0637-2, received 9 July 2014
Public Hearing in the National Capital Region
13 May 2015*

CIHS-FM Wetaskiwin – Licence renewal, licence amendment and issuance of mandatory orders

*The Commission **renews** the broadcasting licence for the English-language specialty commercial radio station CIHS-FM Wetaskiwin from 1 September 2015 to 31 August 2017. This short-term licence renewal will allow for an earlier review of the licensee's compliance with its conditions of licence and with the Commission's regulatory requirements.*

*The Commission **denies** the licensee's request to amend CIHS-FM's condition of licence relating to the broadcast of musical selections.*

The Commission issues mandatory orders requiring 902890 Alberta Ltd. to ensure that CIHS-FM complies at all time with sections 8(1), 8(4), 8(5), 8(6), 9(3), 9(4) and 15(2) of the Radio Regulations, 1986.

Application

1. 902890 Alberta Ltd. (902890 Alberta) filed an application to renew the broadcasting licence for the English-language specialty commercial radio station CIHS-FM Wetaskiwin, which expires 31 August 2015.
2. 902890 Alberta is wholly owned by Satnam Media Group Inc., which in turn is wholly owned and controlled by Mr. Sukhdev S. Dhillon.
3. The licensee also requested an amendment to CIHS-FM's condition of licence relating to the broadcast of musical selections. This amendment would relieve the licensee of the requirement to devote a minimum of 50% of the station's musical programming to non-classic religious musical selections and instead require it to devote at least one quarter of the station's musical programming to folk and

folk-oriented musical selections and at least one quarter to world beat and international musical selections.

4. The Commission received an intervention in opposition to the application from Ms. Radha Fournier, the former station manager of CFSI-FM Salt Spring, British Columbia, which was another licensee owned and controlled by Mr. Dhillon.¹ The licensee did not reply to the intervention. The public record for this application can be found on the Commission's website at www.crtc.gc.ca or by using the application number provided above.

Commission's analysis and decisions

5. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issues to be addressed are the following:
 - various instances of the licensee's apparent non-compliance with the *Radio Regulations, 1986* (the Regulations); and
 - the requested amendment to CIHS-FM's condition of licence relating to the broadcast of musical programming.

Non-compliance

6. In Broadcasting Notice of Consultation 2015-84, the Commission stated that, for certain broadcast years, 902890 Alberta may have failed to comply with sections of the Regulations relating to the filing of annual returns, Canadian content development (CCD) contributions, the filing of program logs, the filing and retention of logger tapes, the filing of music lists, and responding to Commission inquiries on various matters, including in regard to its regulatory compliance and the filing of the licence renewal application for CIHS-FM.

Annual returns

7. Section 9(2) of the Regulations requires licensees to file an annual return by 30 November of each year for the broadcast year ending the previous 31 August. The specifics of this filing requirement, including the requirement to file financial statements, are elaborated upon in Broadcasting Information Bulletin 2011-795. In the present case, 902890 Alberta submitted the annual return for the 2008-2009 broadcast year on 1 March 2010, more than three months after the prescribed deadline, and for the 2009-2010 broadcast year on 13 May 2011, more than five months after the prescribed deadline. For subsequent broadcast years, the station's annual returns were filed on time.

¹ The broadcasting licence for CFSI-FM was revoked, effective 25 July 2015, in Broadcasting Decision 2015-281.

8. The licensee did not dispute its non-compliance with section 9(2). It stated that a station employee had filed the station's returns in the past, but that it would hire a chartered accountant to file all future returns.
9. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations for the 2008-2009 and 2009-2010 broadcast years.

Canadian content development contributions

10. Section 15(2) of the Regulations sets out the basic CCD requirements for radio stations. In Broadcasting Notice of Consultation 2015-84, the Commission stated that 902890 Alberta may have failed to comply with section 15(2)(a) of the Regulations, which, until the end of the 2012-2013 broadcast year, required that a licensee with total revenues less than \$625,000 make a \$500 contribution to eligible CCD initiatives.² Specifically, whereas the licensee was required to make this basic CCD contribution for CIHS-FM for each of the 2007-2008 through 2012-2013 broadcast years, no basic contributions were made for the 2007-2008, 2009-2010, 2011-2012 and 2012-2013 broadcast years, resulting in an apparent shortfall of \$2,000.
11. When asked to comment on the possible imposition of a condition of licence requiring payment of the shortfall, the licensee stated that it had understood that such a condition of licence would be imposed. At the hearing, Mr. Dhillon, who appeared on behalf of CIHS-FM, stated that, going forward, all CCD contributions would be handled by a chartered accountant. Mr. Dhillon agreed to pay the shortfall and provide proof of payment to the Commission within the 30 days following the public hearing. Although the licensee provided a copy of a cheque for \$2,000 written to FACTOR on the thirtieth day after the start of the public hearing, it did not provide either a cancelled cheque or a receipt from FACTOR as proof of payment.
12. In light of the above, the Commission finds the licensee in non-compliance with section 15(2)(a) of the Regulations for the 2007-2008, 2009-2010, 2011-2012 and 2012-2013 broadcast years. Furthermore, the Commission requires the licensee to pay the outstanding amount and submit proof of payment to the Commission by no later than 10 days following the date of this decision.³ A **condition of licence** to that effect is set out in the appendix to this decision.

Program logs, logger tapes and music lists

13. Sections 8(1), 8(4), 8(5), 8(6) and 9(3) of the Regulations relate to a licensee's responsibilities regarding program logs, logger tapes and music lists. These provisions require, among other things, that a licensee keep and retain logs and logger

² The Commission amended section 15(2) of the Regulations, effective 1 September 2013, to require that only licensees with total revenues of more than \$1,250,000 make basic CCD contributions, specifically, \$1,000 annually plus one half of one percent of revenues in excess of \$1,250,000.

³ If the licensee has already made such a payment, it will satisfy this requirement by submitting proof of that payment to the Commission within the prescribed timeframe.

tapes and that a licensee submit logs, logger tapes or music lists to the Commission upon request. Since October 2014, the Commission has attempted on several occasions to obtain the program logs, logger tapes and music lists for CIHS-FM in order to analyze them in preparation for its consideration of the renewal of the broadcasting licence for the station. Although the materials were to be provided to the Commission by 21 November 2014, the Commission has not yet received them.

14. According to 902890 Alberta, its former consultant deemed the logs unfit for submission. The licensee indicated that to fix the logging issues, it has acquired a new, automated logging system and has implemented new procedures whereby the logging machine and automated system are remotely checked three times a day by a Mr. Tony Vieira, who works out of California in the United States. It added that it is currently evaluating whether to acquire another automated system that provides more logging details.
15. In light of the above, the Commission finds the licensee in non-compliance with sections 8(1), 8(4), 8(5), 8(6) and 9(3) of the Regulations.

Commission requests for information

16. Section 9(4) of the Regulations requires licensees to provide, upon Commission request, information regarding their adherence to regulatory and other requirements. In the present case, 902890 Alberta failed to respond to the Commission's request to submit the program logs, logger tapes and musical lists noted above. Further, it filed the renewal application for CIHS-FM on 9 July 2014, more than eight months past the deadline of 8 November 2013.⁴
17. At the hearing, Mr. Dhillon acknowledged the late filing, but claimed that the station's former consultant was responsible for the late filing of the licence renewal application for CIHS-FM. Mr. Dhillon further stated that, going forward, he would contact the Commission if he requires assistance understanding CIHS-FM's regulatory obligations.
18. In light of the above, the Commission finds the licensee in non-compliance with section 9(4) of the Regulations.

Regulatory measures

19. 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 quantity, recurrence and seriousness of the non-compliance. The circumstances, the arguments

⁴ The Commission first indicated that it had not received the licence renewal application for CIHS-FM in Broadcasting Decision 2014-292, in which it administratively renewed the station's broadcasting licence until 31 August 2015.

provided by the licensee and the actions taken to rectify the situation are also considered.

20. Compliance with deadlines for the filing of complete annual returns is important because it enables the Commission to monitor a licensee's performance and compliance with regulations and licence requirements. By filing its licence renewal application in a timely manner, a licensee provides the Commission with sufficient time to review that licensee's compliance with its regulatory requirements prior to the expiry of its licence.
21. Further, the filing of complete and accurate program logs, logger tapes and music lists enables the Commission to conduct an analysis of a station's programming to verify compliance with regulatory requirements and conditions of licence. The retention of logger tapes also makes it possible for the Commission to investigate a station's programming in the case of complaints.
22. Since the Commission is charged with the supervision and regulation of the Canadian broadcasting system, a licensee that does not file requested material in a timely manner, or does not file such material at all, affects the ability of the Commission to adequately perform its duty to independently confirm the licensee's adherence to regulatory and licence requirements. These filings also become important indicators of whether the licensee has the willingness, ability and knowledge necessary to bring itself into compliance and maintain such compliance. Given the above, the Commission views the licensee's non-compliance with these requirements as a very serious matter.
23. Finally, it is important that radio station licensees make their required CCD contributions 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. It is also important that licensees provide, by the required deadlines, proof of payment to such initiatives so that the Commission may verify licensees' compliance with regulatory requirements and conditions of licence relating to CCD.
24. In Broadcasting Notice of Consultation 2015-84, the licensee was summoned to the 13 May 2015 public hearing in order to show cause
 - why its licence should not be suspended or revoked pursuant to sections 9 and 24 of the *Broadcasting Act* (the Act); and
 - why, if the licence was renewed:
 - the renewal should not be for a short term; and
 - mandatory orders should not be issued under section 12 of the Act requiring the licensee to comply with the Regulations and its conditions of licence.

25. The Commission acknowledges the remedies proposed by the licensee to ensure future compliance, and notes that this is the first licence term in which the licensee has been in a situation of non-compliance. However, it considers the multiple instances of non-compliance are serious in nature, and notes that the explanations provided for the non-compliance attempted, in some cases, to shift responsibility and blame onto former consultants and current staff.
26. When asked to comment on the range of possible sanctions, the licensee stated that a short-term renewal would be difficult but an opportunity to demonstrate compliance. At the hearing, when asked about the possibility of a short-term renewal, Mr. Dhillon replied: “Well, I don’t mind, because I would like to prove myself, that, you know – I might be given a short term, that’s fine.”⁵
27. Given that 902890 Alberta’s non-compliance relates to fundamental aspects of the broadcasting regulatory system and the broadcasting licence for CIHS-FM, and given the nature, extent and recurrence of the non-compliance, the Commission finds a short-term licence renewal of two years for CIHS-FM is appropriate.
28. Accordingly, the Commission **renews** the broadcasting licence for the English-language specialty commercial radio programming undertaking CIHS-FM Wetaskiwin from 1 September 2015 to 31 August 2017. This short-term licence renewal will allow for an earlier review of the licensee’s compliance with its conditions of licence and with the Commission’s regulatory requirements. The **conditions of licence** are set out in Appendix 1 to this decision.
29. The Commission further finds it appropriate to issue mandatory orders requiring 902890 Alberta, in regard to CIHS-FM, to comply at all times with the following:
- sections 8(1) and 8(4) of the Regulations relating to the filing of program logs;
 - sections 8(5), 8(6), 9(3) and 9(4) of the Regulations relating to the filing of logger tapes and music lists, and with the requirement to provide, upon Commission request, information relating to, among other things, compliance with its regulatory requirements; and
 - section 15(2) of the Regulations relating to CCD contributions.
30. The mandatory orders requiring compliance with the above-noted sections of the Regulations are set out in Appendices 2 through 8 to this decision.
31. The Commission reminds Mr. Dhillon that he is ultimately responsible for the regulatory obligations of the licensee and for the actions of station employees and consultants insofar as those actions impact the station’s regulatory compliance.

⁵ Transcript, 13 May 2015 public hearing, volume 2, paragraph 2076

32. The upcoming licence term is, as Mr. Dhillon himself acknowledged, an opportunity for the licensee to demonstrate compliance. Should 902890 Alberta again breach its regulatory requirements, the Commission may consider recourse to additional measures as noted above, including suspension, non-renewal or revocation of the broadcasting licence for CIHS-FM under sections 9 and 24 of the Act.

Requested licence amendment

33. As noted above, the licensee requested an amendment to CIHS-FM's condition of licence relating to the broadcast of musical selections. This condition of licence, which is set out in the appendix to Broadcasting Decision 2007-254, reads as follows:

The licensee shall devote a minimum of 50% of all musical selections broadcast during each broadcast week to selections drawn from subcategory 35 (Non-classic religious).

34. The licensee requested that this condition of licence be replaced with the following:

The licensee shall devote a minimum of 50% of all musical selections broadcast during each broadcast week to selections drawn from content category 3 (Special Interest Music), of which not less than 25% shall be drawn from content subcategory 32 (Folk and folk-oriented) and not less than 25% shall be drawn from content subcategory 33 (World beat and international).

35. According to the licensee, the station's current format is not financially viable. It argued that based on discussions with potential advertisers, a world beat/folk and folk-oriented music format with a mix of Italian, Mexican, Filipino and Southeast Asian musical selections would be more marketable. The licensee further stated that if the proposed amendment is approved, it would begin marketing the station professionally, which it stated would garner the audience and revenues necessary to make the station viable.

36. As noted above, pursuant to Broadcasting Information Bulletin 2014-608, each instance of non-compliance is evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The circumstances, the arguments provided by the licensee and the actions taken to rectify the situation are also considered. In that information bulletin, the Commission also stated that it would take into account the criteria set out above when considering applications for licence amendments, noting that it is the licensee's responsibility to demonstrate that it is in full compliance with its regulatory obligations when applying for such amendments.

37. In regard to the present case, the multiple instances of non-compliance are serious in nature. Moreover, the licensee has not put forward documentation, statistics or market studies that would support the proposed amendment. Consequently, it would not be appropriate to approve 902890 Alberta's requested amendment to CIHS-FM's condition of licence relating to the broadcast of musical selections. Accordingly, the Commission **denies** that request.

Reminder

38. Pursuant to section 22 of the Act, the broadcasting licence renewed in this decision will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Secretary General

Related documents

- *CFSI-FM Salt Spring Island and its transmitter CFSI-FM-1 Mount Bruce – Revocation of licence*, Broadcasting Decision CRTC 2015-281, 25 June 2015
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2015-84, 11 March 2015
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2014-292, 3 June 2014
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *CIHS-FM Wetaskiwin – Licence renewal*, Broadcasting Decision CRTC 2007-254, 26 July 2007

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

Appendix 1 to Broadcasting Decision CRTC 2015-383

Conditions of licence for the English-language specialty commercial radio programming undertaking CIHS-FM Wetaskiwin, Alberta

1. The licence shall adhere to the conditions set out in the broadcasting licence for the undertaking and 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*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. The licensee shall devote a minimum of 50% of all musical selections broadcast during each broadcast week to selections drawn from content subcategory 35 (Non-classic religious).
4. In order to address its Canadian content development (CCD) shortfall for the 2007-2008, 2009-2010, 2011-2012 and 2012-2013 broadcast years, the licensee shall, by no later than **31 August 2015**, make a payment of \$2,000 to an eligible CCD initiative and provide the Commission with proof that this payment has been made.

Appendix 2 to Broadcasting Decision CRTC 2015-383

Broadcasting Mandatory Order CRTC 2015-384

902890 Alberta Ltd., the licensee of the English-language specialty commercial radio programming undertaking CIHS-FM Wetaskiwin, which is wholly owned by Satnam Media Group Inc., which in turn is wholly owned and controlled by Sukhdev Singh Dhillon, is hereby ordered, pursuant to subsection 12(2) of the *Broadcasting Act*, to comply at all times with the requirements contained in subsection 8(1) of the *Radio Regulations, 1986*, which reads as follows:

Except as otherwise provided under a condition of its licence, a licensee shall:

- (a) keep, in a form acceptable to the Commission, a program log or a machine readable record of the matter broadcast by the licensee;
- (b) retain the log or record for a period of one year after the date when the matter was broadcast; and
- (c) cause to be entered in the log or record each day the following information:
 - (i) the date,
 - (ii) the call letters, location and frequency of the licensee's station,
 - (iii) the time at which each station identification announcement is made,
 - (iv) in relation to each program broadcast,
 - (A) the title and a brief description,
 - (B) subject to subsection (2), the number of the relevant content category,
 - (C) the time at which the program begins and ends,
 - (D) the code set out in the schedule indicating the origin of the program and where applicable the language, type or group, and
 - (E) if applicable, the code set out in the schedule identifying non-Canadian programming, and
 - (v) in relation to each commercial message, the quarter hour during which it is broadcast, its duration and the number of the relevant content subcategory.

Appendix 3 to Broadcasting Decision CRTC 2015-383

Broadcasting Mandatory Order CRTC 2015-385

902890 Alberta Ltd., the licensee of the English-language specialty commercial radio programming undertaking CIHS-FM Wetaskiwin, which is wholly owned by Satnam Media Group Inc., which in turn is wholly owned and controlled by Sukhdev Singh Dhillon, is hereby ordered, pursuant to subsection 12(2) of the *Broadcasting Act*, to comply at all times with the requirements contained in subsection 8(4) of the *Radio Regulations, 1986*, which reads as follows:

A licensee shall furnish, to the Commission on request, its program log or machine readable record for any day, with a certificate by or on behalf of the licensee attesting to the accuracy of its content.

Appendix 4 to Broadcasting Decision CRTC 2015-383

Broadcasting Mandatory Order CRTC 2015-386

902890 Alberta Ltd., the licensee of the English-language specialty commercial radio programming undertaking CIHS-FM Wetaskiwin, which is wholly owned by Satnam Media Group Inc., which in turn is wholly owned and controlled by Sukhdev Singh Dhillon, is hereby ordered, pursuant to subsection 12(2) of the *Broadcasting Act*, to comply at all times with the requirements contained in subsection 8(5) of the *Radio Regulations, 1986*, which reads as follows:

A licensee shall retain a clear and intelligible tape recording or other exact copy of all matter broadcast

- (a) for four weeks from the date of the broadcast; or
- (b) where the Commission receives a complaint from any person regarding the matter broadcast or for any other reason wishes to investigate it and so notifies the licensee before the expiration of the period referred to in paragraph (a), for eight weeks from the date of the broadcast.

Appendix 5 to Broadcasting Decision CRTC 2015-383

Broadcasting Mandatory Order CRTC 2015-387

902890 Alberta Ltd., the licensee of the English-language specialty commercial radio programming undertaking CIHS-FM Wetaskiwin, which is wholly owned by Satnam Media Group Inc., which in turn is wholly owned and controlled by Sukhdev Singh Dhillon, is hereby ordered, pursuant to subsection 12(2) of the *Broadcasting Act*, to comply at all times with the requirements contained in subsection 8(6) of the *Radio Regulations, 1986*, which reads as follows:

Where, before the expiry of the applicable period referred to in subsection (5), the Commission requests from the licensee a clear and intelligible tape recording or other exact copy of matter broadcast, the licensee shall furnish it to the Commission forthwith.

Appendix 6 to Broadcasting Decision CRTC 2015-383

Broadcasting Mandatory Order CRTC 2015-388

902890 Alberta Ltd., the licensee of the English-language specialty commercial radio programming undertaking CIHS-FM Wetaskiwin, which is wholly owned by Satnam Media Group Inc., which in turn is wholly owned and controlled by Sukhdev Singh Dhillon, is hereby ordered, pursuant to subsection 12(2) of the *Broadcasting Act*, to comply at all times with the requirements contained in subsection 9(3) of the *Radio Regulations, 1986*, which reads as follows:

At the request of the Commission, a licensee shall submit for any period specified by the Commission in its request

- (a) the information required by the most recent Station Self-assessment Report form issued by the Commission; and
- (b) a list of the musical selections in the order in which they are broadcast by the licensee during that period that includes the title and performer of each musical selection and a legend that identifies
 - (i) any Canadian musical selection,
 - (ii) any hit,
 - (iii) any instrumental selection,
 - (iv) any content category 3 musical selection, and
 - (v) the language of the musical selection, where the musical selection is not an instrumental selection.

Appendix 7 to Broadcasting Decision CRTC 2015-383

Broadcasting Mandatory Order CRTC 2015-389

902890 Alberta Ltd., the licensee of the English-language specialty commercial radio programming undertaking CIHS-FM Wetaskiwin, which is wholly owned by Satnam Media Group Inc., which in turn is wholly owned and controlled by Sukhdev Singh Dhillon, is hereby ordered, pursuant to subsection 12(2) of the *Broadcasting Act*, to comply at all times with the requirements contained in subsection 9(4) of the *Radio Regulations, 1986*, which reads as follows:

At the request of the Commission, a licensee shall respond to

- (a) any complaint or request for resolution of a dispute filed by any person or any request for information regarding programming originated or distributed by the licensee or regarding the licensee's technical operations, subscribership, financial affairs or ownership; and
- (b) any request for information regarding the licensee's adherence to the conditions of its licence, the Act, these Regulations, industry standards, practices or codes or any other self-regulatory mechanism of the industry.

Appendix 8 to Broadcasting Decision CRTC 2015-383

Broadcasting Mandatory Order CRTC 2015-390

902890 Alberta Ltd., the licensee of the English-language specialty commercial radio programming undertaking CIHS-FM Wetaskiwin, which is wholly owned by Satnam Media Group Inc., which in turn is wholly owned and controlled by Sukhdev Singh Dhillon, is hereby ordered, pursuant to subsection 12(2) of the *Broadcasting Act*, to comply at all times with the requirements contained in subsection 15(2) of the *Radio Regulations, 1986* concerning basic Canadian content development contributions, which reads as follows:

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, if the licensee's total revenues are more than \$1,250,000, contribute annually to eligible initiatives \$1,000 plus one half of one percent of those revenues that are in excess of \$1,250,000.