



Broadcasting Decision CRTC 2019-250

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Reference: Part 1 licence renewal application posted on 28 February 2019

Ottawa, 11 July 2019

Radio Markham York Incorporated
Markham, Ontario

Public record for this application: 2018-0853-6

CFMS-FM Markham – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CFMS-FM Markham from 1 September 2019 to 31 August 2025. This short-term licence renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.*

Application

1. Radio Markham York Incorporated filed an application to renew the broadcasting licence for the English-language commercial radio station CFMS-FM Markham, Ontario, which expires 31 August 2019. The Commission did not receive any interventions in regard to this application.

Non-compliance

Canadian content development contributions

2. For the current licence term, as set out in Appendix 2 to Broadcasting Decision 2012-487, the licensee was required by condition of licence to make annual contributions over and above any basic annual Canadian content development (CCD) contributions required under section 15 of the *Radio Regulations, 1986* (the Regulations).
3. According to Commission records, the licensee made the required contributions for each broadcast year. However, the payment for the 2016-2017 broadcast year was not made until 13 December 2017, more than 3 months after the 31 August deadline.
4. In light of the above, the Commission finds the licensee in non-compliance with condition of licence 2 relating to CCD contributions set out in Appendix 2 to Broadcasting Decision 2012-487 for the 2016-2017 broadcast year.

Regulatory measures

5. 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 leading to the non-compliance, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
6. In this instance, the licensee has made the CCD contributions required by condition of licence since the station's launch in the 2013-2014 broadcast year. The one instance of non-compliance related to the lateness of its contribution for the 2016-2017 broadcast year. The Commission considers that the licensee understands its obligations and has put measures in place to ensure that contributions are made properly during the upcoming licence term. It finds that a licence renewal of six years is appropriate. This short-term licence renewal will allow for an earlier review of the licensee's compliance with the Regulations and its conditions of licence.

Conclusion

7. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CFMS-FM Markham from 1 September 2019 to 31 August 2025. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminders

8. The Commission reminds the licensee that it must comply at all times with the requirements set out in the *Broadcasting Act* (the Act), the Regulations and its conditions of licence.
9. Pursuant to section 22 of the Act, the broadcasting licence renewed in this decision will cease to have any force or effect should the broadcasting certificate issued by the Department of Industry lapse.
10. It is important that radio station licensees make their required contributions to CCD, 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. The non-payment of CCD contributions therefore has the potential to cause harm to the Canadian broadcasting system.
11. It is incumbent upon licensees to provide, by the required deadlines, proof of payment to such initiatives. Licensees must also provide sufficient documentation to support the eligibility of their contributions. Failure to do so may result in the Commission finding a contribution ineligible, which in turn may affect a station's compliance with regulatory obligations.

12. The Commission reminds that licensee that it is required to contribute \$2,657 in the 2018-2019 broadcast year to CCD by no later than 31 August 2019, which represents the amount owing for year six of the original seven-year CCD contribution of \$24,225. As per the Regulations, the licensee must file proof of payment for this contribution by 30 November 2019.

Secretary General

Related documents

- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Licensing of new radio stations to serve Markham*, Broadcasting Decision CRTC 2012-487, 11 September 2012

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2019-250

Terms, conditions of licence, expectation and encouragement for the English-language commercial radio programming undertaking CFMS-FM Markham, Ontario

Terms

The licence will expire 31 August 2025.

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, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. To fulfill its outstanding commitments to Canadian content development (CCD) set out in Appendix 2 to *Licensing of new radio stations to serve Markham*, Broadcasting Decision CRTC 2012-487, 11 September 2012, the licensee shall, in addition to the basic annual contributions to CCD set out in section 15 of the *Radio Regulations, 1986*, make a CCD contributions of \$1,804 in the 2019-2020 broadcast year by no later than 31 August 2020, which represents the amount owing for the final year of the original seven-year CCD commitment of \$24,225.

Of this amount, the licensee shall allocate at least 20% to FACTOR. The remainder 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. In each broadcast week, the licensee shall provide programming directed to a minimum of five ethnic groups in a minimum of nine languages.
4. As an exception to section 7(3) of the *Radio Regulations, 1986*, the licensee may devote a maximum of 36.9% of its programming to third-language programming.

Expectation

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

Encouragement

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.