



Broadcasting Decision CRTC 2021-83

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Reference: Part 1 licence renewal application posted on 30 October 2020

Ottawa, 22 February 2021

Hornby Community Radio Society

Hornby Island, British Columbia

Public record for this application: 2019-0781-7

CHFR-FM Hornby Island – Licence renewal

*The Commission **renews** the broadcasting licence for the low-power, English-language community radio station CHFR-FM Hornby Island, British Columbia, from 1 March 2021 to 31 August 2025. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements.*

Application

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-194, which listed the radio stations for which the broadcasting licences would expire 31 August 2020 and therefore needed to be renewed to continue their operations. In that notice of consultation, the Commission requested that the licensees of those stations submit renewal applications for their broadcasting licences.
3. In response, Hornby Community Radio Society (Hornby) filed an application to renew the broadcasting licence for the low-power, English-language community radio station CHFR-FM Hornby Island, British Columbia, which expires 28 February 2021.¹ The Commission did not receive any interventions regarding this application.

Non-compliance

Annual returns

4. Section 10(1)(i) of the Act authorizes the Commission, in furtherance of its objects, to make regulations requiring licensees to submit to the Commission such information

¹ The original licence expiry date for this station was 31 August 2020. The licence was administratively renewed from 1 September 2020 until 28 February 2021 as a result of Broadcasting Decision 2020-284.

regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.

5. Pursuant to this authority, the Commission made section 9(2) of the *Radio Regulations, 1986* (the Regulations), which requires licensees to file an annual return, including financial statements, by no later than 30 November of a given year for the broadcast year ending the previous 31 August. The specific filing requirements, including the requirement to file financial statements, are set out in Broadcasting Information Bulletin 2011-795.
6. According to Commission records, the financial statements for CHFR-FM for the 2016-2017 broadcast year were filed late, specifically, on 6 September 2018.
7. In order to explain this late filing, Hornby submitted that the person responsible for corresponding with the Commission was not in sufficiently close contact with Hornby's board of directors and apparently did not follow up on the required reporting in a timely manner.
8. The licensee stated that in October 2018, it hired a new person to manage communications with the Commission. It added that the new manager is in closer contact with Hornby's board of directors and treasurer and understands the importance of submitting financial statements on time as required in section 9(2) of the Regulations.
9. In this regard, the Commission notes that this is the station's first licence term and that the annual returns for all other broadcast years were complete and filed on time. Further, The Commission is of the view that the licensee understands its regulatory requirements and is satisfied that the hiring of a new person to manage communications with the Commission is an appropriate measure that should ensure the station's compliance with its regulatory obligations. Accordingly, the Commission finds that no further measures are warranted for the station with respect to this issue.

Implementation of the National Public Alerting System

10. Section 10(1) of the Act authorizes the Commission to make regulations furthering its objects regarding the broadcasting of programs. In Broadcasting Regulatory Policy 2014-444, the Commission reiterated that the broadcasting system has a vital role to play in the provision of emergency alert messages to Canadians and that the duty to inform the public of imminent perils is at the core of the public service obligations of all broadcasters.
11. The provision of emergency alert messages is achieved through Canada's National Public Alerting System (NPAS). In Broadcasting Regulatory Policy 2014-444, the Commission announced that it was requiring broadcasters to fully participate in the NPAS. In this regard, it set out that most broadcasters in Canada would be required to alert Canadians to imminent threats to life by 31 March 2015. For campus, community and Indigenous radio stations and television broadcasters, as well as

radiocommunication distribution undertakings, participation in the NPAS would be required by 31 March 2016.

12. In regard to campus, community and Indigenous radio stations and television broadcasters, as well as radiocommunication distribution undertakings, pursuant to the authority granted by section 10(1) of the Act, the Commission made section 16(3) of the Regulations, which specifies that except as otherwise provided under a condition of its licence, a licensee shall implement on all stations that it is licensed to operate, by no later than 31 March 2016, a public alerting system that broadcasts without delay, on a given station, any audio alert that it receives from the National Alert Aggregation and Dissemination System that (a) announces an imminent or unfolding danger to life; and (b) is designated by the applicable issuing authority for immediate broadcast in all or part of the area within the station's A.M. 5 mV/m contour, F.M. 0.5 mV/m contour or digital service area, as the case may be.
13. According to Commission records, Hornby did not implement the NPAS for CHFR-FM by the 31 March 2016 time limit.
14. Hornby submitted that the station did not have Internet access, was not able to receive satellite signals and does not broadcast 24 hours per day. It was therefore in direct contact with Hornby Island Fire Rescue and the licensee's board of directors set up clear protocols for local emergency alerts to be aired as needed during on-air hours. These protocols were tested in 2020 during regular fire practice and found to be effective.
15. The licensee noted that it has since taken the following steps to implement the NPAS:
 - its board of directors approved the installation of Internet at CHFR-FM's studio, which is now operational;
 - it is now coordinating with Hornby Island Fire Rescue, the Hornby Emergency Preparedness Committee and other local organizations to fundraise for the purchase and installation of an approved NPAS; and
 - it has begun researching the appropriate system for the station.
16. The licensee anticipates having the NPAS fully installed by 31 July 2021, and most likely sooner.
17. In light of the above, the Commission finds the licensee in non-compliance with section 16(3) of the Regulations.

Regulatory measures

18. 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 number, recurrence and seriousness of the instances of 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.

19. In regard to the licensee's non-compliance relating to the implementation of the NPAS, the Commission considers this non-compliance to be very severe in nature given that more than four years have passed since the 31 March 2016 time limit for community radio stations to install the system. Although community radio stations have limited financial means, and although CHFR-FM in particular has been in direct contact with Hornby Island Fire Rescue to set up clear protocols for local emergency alerts to be aired as needed during on-air hours, the Commission finds that the licensee's failure to implement the alerting system represents a gap in critical infrastructure to warn Canadians of situations where imminent threat to life exists.
20. In the Commission's view, the licensee understands the issues relating to its regulatory obligations and has made an effort to prioritize them. The Commission also considers that the licensee is working on a solution to avoid non-compliance with requirements relating to the NPAS in the future, and that the measures the licensee has put in place should allow it to operate the station in compliance with its regulatory obligations going forward. Nevertheless, the Commission finds that it would be appropriate to require the licensee to implement the NPAS on CHFR-FM by no later than **25 May 2021**. A **condition of licence** to that effect is set out in the appendix to this decision. Additionally, the Commission notes that the licensee must include the NPAS system implementation date in Form 1411, which is submitted as part of its annual return.
21. The Commission has examined the public record for this application and notes the licensee's willingness to ensure the station's compliance with regulatory requirements. However, given the seriousness of the licensee's non-compliance with requirements relating to the implementation of the NPAS, the Commission finds that it would be appropriate to renew the broadcasting licence for CHFR-FM for a short-term period, which will allow for an earlier review of the licensee's compliance with its regulatory requirements.

Conclusion

22. In light of all of the above, the Commission **renews** the broadcasting licence for the low-power, English-language community radio programming undertaking CHFR-FM Hornby Island, British Columbia, from 1 March 2021 to 31 August 2025. The **conditions of licence** are set out in the appendix to this decision.

Reminders

National Public Alerting System

23. The full participation of the broadcasting industry is important for the NPAS to be effective in safeguarding and warning Canadians. As such, the Commission considers that compliance must be enforced and station compliance in a timely manner will be closely monitored. The Commission could choose to apply other regulatory measures,

such as those set out in Broadcasting Information bulletin 2014-608, should the requirements with respect to the NPAS not be fulfilled.

Force and effect of broadcasting licences

24. 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

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-284, 21 August 2020
- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-194, 3 June 2019
- *Update on the Commission’s approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014
- *Standard conditions of licence for campus and community radio stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2021-83

Terms, conditions of licence, expectations and encouragement for the low-power, English-language community radio programming undertaking CHFR-FM Hornby Island, British Columbia

Terms

The licence will expire 31 August 2025.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Standard conditions of licence for campus and community radio stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. In order to comply with the requirements set out in sections 16(2) and 16(3) of the *Radio Regulations, 1986 and Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders - Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014 446, 2014-447 and 2014-448, 29 August 2014, the licensee shall implement the National Public Alerting System (NPAS) by no later than **25 May 2021**. As part of this requirement:
 - a. The licensee must file with the Commission a letter attesting to the implementation date of its NPAS within 14 days after the installation. In this letter, the licensee must confirm whether maintenance, testing and updating procedures have been adopted for its automated emergency alert message distribution equipment.
 - b. In addition, the licensee must file with the Commission the results of its first NPAS tests, as scheduled by the relevant alerting authorities, within two weeks after the occurrence of such system tests.

Expectations

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices. The Commission expects all community and campus licensees to file yearly updates on the composition of their boards of directors. These annual updates can be submitted at the time of submission of annual returns, following annual board of directors' elections or at any other time. Such information may be submitted through the Commission's website.

Encouragement

The Commission considers that community radio stations should be particularly sensitive to employment equity issues in order to reflect fully the communities they serve. It encourages the licensee to consider these issues in its hiring practices and in all other aspects of its management of human resources.