



Broadcasting Decision CRTC 2003-557

Ottawa, 14 November 2003

Community Radio Society of Saskatoon Inc.
Saskatoon, Saskatchewan

Application 2002-0404-0
Public Hearing at Edmonton
18 June 2003

CFCR-FM Saskatoon – Licence renewal

The Commission renews the licence for CFCR-FM Saskatoon from 1 December 2003 until 31 August 2005. This short-term renewal will permit the Commission to review, at an early date, the licensee's compliance with provisions of the Radio Regulations, 1986.

1. The Commission received an application by the Community Radio Society of Saskatoon Inc., a not-for-profit corporation, to renew the broadcasting licence for the Type B community radio programming undertaking CFCR-FM Saskatoon. The Commission called the applicant to the 18 June 2003 public hearing in Edmonton to consider the application.

Background

Previous licence renewal

2. In *Fifteen-month licence renewal for CFCR-FM and issuance of a mandatory order*, Decision CRTC 2001-677, 7 November 2001 (Decision 2001-677), the Commission renewed the licence for CFCR-FM from 1 December 2001 until 28 February 2003.¹ Decision 2001-677 noted that the June 2001 public hearing was the second time in two years that the licensee had appeared before the Commission to address non-compliance with the terms of the *Radio Regulations, 1986* (the Regulations) related to the level of Canadian musical selections that must be broadcast. The Commission concluded that the licensee had not shown cause why the Commission should not issue a mandatory order. Decision 2001-677 therefore included Mandatory Order 2001-1 which read as follows:

¹ For administrative reasons, the term of the licence was subsequently extended until 31 August 2003 in *Administrative renewal*, Broadcasting Decision CRTC 2002-446, 13 December 2002, and again until 30 November 2003 in *Administrative renewals*, Broadcasting Decision CRTC 2003-293, 12 July 2003.

Community Radio Society of Saskatoon Inc., licensee of CFCR-FM Saskatoon, Saskatchewan, is hereby ordered, pursuant to subsection 12(2) of the *Broadcasting Act* to comply, at all times within the term of the licence granted in Decision CRTC 2001-677 dated 7 November 2001 with the requirement of subsection 2.2(8) of the *Radio Regulations, 1986* to devote, in each broadcast week, 35% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

3. Decision 2001-677 further indicated that the Commission intended to monitor the licensee's performance closely during the new licence term, and required the licensee to file a self-assessment report every three months on the programming broadcast during a chosen week, as specified by Commission staff. The decision indicated that each report must provide evidence of CFCR-FM's performance in complying with the Commission's regulations and policies as well as written evidence that the licensee had complied with the logger tape requirements set out in section 8 of the Regulations during the three-month period.

CFCR-FM's performance during the licence term

4. Pursuant to Decision 2001-677, Commission staff requested that the licensee file self-assessment reports on three occasions. These reports indicated that CFCR-FM was operating in compliance with the Regulations and the conditions of Mandatory Order 2001-1.
5. The Commission further requested that the licensee submit logger tapes and related material pertaining to the programming broadcast by CFCR-FM during the week of 5-11 May 2002. In a letter dated 6 June 2002 that accompanied the requested materials, the licensee informed the Commission that approximately 24 hours of programming were missing from the logger tapes.
6. Notwithstanding the incomplete tapes, the Commission conducted an analysis of the programming broadcast during the week of 5-11 May 2002, using the station's music lists and programming that was available on the tapes, in order to determine if CFCR-FM was in compliance with the terms of Mandatory Order 2001-1. The incomplete logger tapes made it impossible for the Commission to conduct a complete analysis. However, in a letter dated 18 September 2002, the Commission stated that, based on the material available to it, it had estimated that 35% or more of the musical selections from content category 2 broadcast by CFCR-FM during the week that was analysed were Canadian, as required by the Regulations and Mandatory Order 2001-1. The Commission also informed the licensee that its failure to provide complete logger tapes constituted an apparent violation of subsections 8(5) and 8(6) of the Regulations. These subsections read as follows:

8.(5) A licensee shall retain a clear and intelligible tape recording or other exact copy of all material 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.

8.(6) 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 all matter broadcast, the licensee shall furnish it to the Commission forthwith.

Notice of public hearing

7. In Broadcasting Notice of Public Hearing CRTC 2003-5, 10 April 2003 (Notice of Public Hearing 2003-5), the Commission indicated that it would consider the licence renewal for CFCR-FM at a public hearing in Edmonton in June 2003. Notice of Public Hearing 2003-5 noted the incomplete logger tapes that the licensee had submitted and stated that the Commission expected the licensee to show cause why a mandatory order requiring the licensee to comply with subsections 8(5) and 8(6) of the Regulations should not be issued.
8. The Commission further noted, that in Decision 2001-677, it had stated that “it may have recourse to additional measures in the event of any future non-compliance with the condition of licence or regulations, including suspension, non-renewal or revocation of the licence.” In light of this statement, the Commission indicated that it would expect the licensee to show cause at the hearing why the Commission should not suspend or fail to renew the licence for CFCR-FM.

Interventions

9. The Commission did not receive any interventions in connection with this application.

The public hearing

10. At the public hearing, the Commission discussed with the Community Radio Society of Saskatoon Inc. both of the issues set out in Notice of Public Hearing 2003-5: whether or not a mandatory order should be issued requiring that the licensee adhere to the provisions of the Regulations related to logger tapes, and whether the Commission should suspend or fail to renew the licence for CFCR-FM because of its non-compliance.

Mandatory order respecting logger tapes

11. At the hearing, the licensee outlined various improvements that it had made to its logger tape system. It indicated that it had replaced the system that had proven unsatisfactory with a new digital logger system. In addition, the licensee indicated that a back-up digital logger tape system would be installed. This system would include a device that ensured an uninterrupted power supply. The licensee further indicated that responsibility for the logger tape system now fell directly on its paid staff, not on volunteers. The licensee assured the Commission that, if the Commission were to request logger tapes for programming broadcast during a recent week, it would find the tapes to be complete.
12. In light of the above, the licensee submitted that it was not necessary for the Commission to issue a mandatory order to ensure that CFCR-FM operated in compliance with the provisions of the Regulations relating to logger tapes.

Suspension or non-renewal of CFCR-FM's licence

13. The licensee was concerned that a decision to suspend the licence for CFCR-FM would have serious implications both for the station and for the community that it serves. The licensee stated: "We have made a lot of new friends in the city. We've had a lot more support than we ever had. I think it would be hard to get that momentum back by signing on three or six months down the road."
14. The licensee also submitted that non-renewal of CFCR-FM's licence would put the station's staff out of work, disappoint volunteers who had worked at the station for many years, and deprive Saskatoon residents of an alternative to local commercial radio stations.
15. The licensee considered that a reasonable approach would be for the Commission to grant CFCR-FM another short-term licence renewal, and to consider a licence suspension if the station were found again to be in non-compliance.

Monitoring following the hearing

16. Based on the licensee's assertion at the public hearing that it was now operating in compliance with the provisions of the Regulations, the Commission requested the submission of CFCR-FM's logger tapes for the week of 24 August 2003. The Commission found that the tapes were complete and intelligible, as required under the Regulations. It further found that CFCR-FM had met the requirements for Canadian music set out in the Regulations and in Mandatory Order 2001-1.

The Commission's analysis and determinations

17. The Commission remains concerned about the licensee's past record of non-compliance. It notes, however, that its most recent analysis indicated that CFCR-FM was operating in compliance with the terms of the Regulations as they relate to the broadcast of Canadian musical selections and the maintenance of logger tapes. In light of this, the Commission does not consider that a suspension of CFCR-FM's licence, the issuance of a mandatory order or a non-renewal of the licence is warranted.
18. The Commission considers, however, that in light of the licensee's record of non-compliance, and the record of the public hearing, CFCR-FM's licence should be renewed for a short term in order that the Commission may continue to monitor the station's performance, and ensure that it has solved, on a permanent basis, the problems with compliance that it has experienced. The Commission considers that a licence term of 21 months is reasonable. Further the Commission finds that the licensee should continue to submit compliance reports as was required by Decision 2001-677.
19. Accordingly, the Commission **renews** the broadcasting licence for the Type B community radio programming undertaking CFCR-FM from 1 December 2003 until 31 August 2005, subject to the conditions set out in *New licence form for community radio stations*, Public Notice CRTC 2000-157, 16 November 2000.
20. During the new licence term, the licensee must file a self-assessment report every three months on the programming broadcast during a chosen week, as specified by Commission staff. Each report must provide evidence of CFCR-FM's performance in complying with the Commission's Regulations and policies. Along with each report, the licensee must submit written evidence that it has complied with the requirements set out in section 8 of the Regulations during the three-month period. The self assessment report and other written evidence must be attested to by the board of directors of CFCR-FM.
21. The Commission emphasizes that it may have recourse to additional measures in the event of any future non-compliance with the Regulations or CFCR-FM's conditions of licence, including suspension, non-renewal or revocation of the licence.

Canadian talent development

22. The Commission expects the licensee to implement the initiatives set out in its plan for Canadian talent development and to give effect to the measures designed to encourage the participation of volunteers.

Other matters

23. The Commission considers that community radio stations should be particularly sensitive to employment equity issues in order to reflect 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.

Secretary General

This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined at the following Internet site: <http://www.crtc.gc.ca>