



CRTC Public Hearing 2011-188

Presentation of
CFRO-FM Vancouver Co-operative Radio
Application 2011-0165-9

May 18, 2011

1. My name is Leela Chinniah. I am the Program Co-ordinator at Vancouver Co-operative Radio.
2. And my name is Robin Puga. I am the chair of the Board for Co-op Radio. Thank you for this opportunity to speak to the Commission today. Thank you also for the permission to appear via videoconferencing. We realize that this is not ideal and we really appreciate your flexibility in this matter. For our station, the cost of flying out a representative is an expense that we simply could not afford.
3. We're here to show cause why a mandatory order need not be issued requiring Co-op Radio to comply with section 9(2) of the Regulations. We're also here to show cause why the Commission should not suspend or refuse to renew our broadcasting license. In fact, we hope the Commission will be sufficiently confident in our intention and ability to comply, that you will choose to renew our license for the full 7 year term.
4. To do this, we will briefly outline the three instances of non-compliance raised by the Commission in this Notice. We will also outline the steps that we've already taken to assure the Commission that we have the procedures and policies in place to address your concerns. We will also highlight some interventions received in support of our application and refer to a previous Commission decision we think is relevant to your deliberations.
5. In 2004, the Commission issued Co-op Radio a four-year short term renewal based on our non-compliance with section 8 of the Regulations. During the license period, we were still using VHS tapes to record our signal. This system involved staff and volunteers diligently changing tapes on a daily basis. It was a high-maintenance system but one that we kept up because it was affordable, and we were committed to adhering to the Regulations. In order to function within our budgetary constraints, we re-used the tapes every month. Unfortunately, after years of re-use, the tapes became worn out. Commission staff notified us that the tapes that we had submitted during our monitoring week in 2002 were inaudible. Soon after, we raised enough money to install a new computer logging system. Within a few months, and still well within the same license

period, we had solved the problem of inaudible logs and implemented an improved and reliable system. We're still using this system and have since obtained a back-up computer to ensure that it remains reliable.

6. We took this infraction seriously. Even before the license term was up, we had already rectified the problem to ensure that it didn't happen again. We have not had one issue with inaudible or unavailable logs and have been in full compliance with Section 8 of the Regulations ever since.

7. In 2008, the Commission issued Co-op Radio a 2-year license based on our non-compliance relating to the Canadian Content requirements for Category 2 musical selections. The Commission subsequently extended the term by one year. During the week of Nov. 5 – 11, 2006, only 32.8% of our Category 2 musical selections met the CanCon requirements. We were 2.2% short of the minimum requirement.

8. Co-op Radio is not an aspiring Pop Rock station. Only a small proportion of our programming constitutes Category 2 music – 6% in total. Due to the mandate of our station, 85% of our music programming is from Category 3. We focus on genres that are not featured on other stations. The shortage of Canadian Content found in the monitoring week did not reflect the high proportion of community news and information that we consistently provide. Nor did the findings reflect our adherence to the CanCon requirements during other weeks. What it did highlight was the CanCon shortage by one program on one unique occasion when one volunteer programmer filled in for another and substituted category 2 for category 3 music.

9. We took this infraction very seriously. We immediately implemented new monitoring systems and created new educational resources for volunteers. We posted additional signage about the regulations throughout the station and we now lead volunteers through specific training exercises to ensure that every volunteer programmer understands the CanCon requirements. All new program applications are evaluated, in part, on their ability to meet the CanCon requirements.

10. It was challenging for us to re-educate 400 people. But we have created a culture where all volunteers are acutely aware of the importance of the CanCon regulatory

requirements. It is now a source of pride for our programmers when they make the top 10 list of CanCon providers within the station. Many of our shows aim for 100% CanCon. This is a cultural shift that has resulted from a lot of work and dedication to ensuring compliance.

11. The results from our last monitoring period demonstrate the effectiveness of our actions. During the week of July 19 – 25, 2009, 46% of our Category 2 musical selections were Canadian Content. That's more than 10% over the minimum requirement. We also far exceeded the requirements in Category 3 selections with over 25% of selections fulfilling the Canadian Content requirements.
12. Once again, we identified ways to address the non-compliance and rectified the problem to ensure that it would not happen again. We have been in full compliance with Section 2.2 of the Regulations ever since.
13. Earlier this year, the Commission notified us that the Annual Returns for 2009 and 2010 were filed late. In 2009, the Return was filed a little over 2 weeks late. The Financial Administrator who submitted the Return that year left her position at the end of her one-year contract. She did not notify the rest of the staff and the Board that she'd filed the Return late, and the Commission did not contact us about that issue until this year.
14. In November 2010, I received a notice that the deadline for the submission of Annual Returns had been extended until Dec. 15 due to technical issues with the Access Key filing system. I immediately notified our new Financial Administrator. She assured me that she would submit the Return the next day – well before the new deadline. I reviewed the forms with her and she promised to file them immediately. A few weeks later, following an assessment of her probationary period, the Board terminated her employment due to unsatisfactory performance. Although we didn't know at that time that the Annual Returns hadn't been filed, the Board's decision demonstrates how effective our new Employee Probation Policy and Evaluation Procedure is. It enabled them to identify problems with a new employee early on, it empowered them to act swiftly, and it ensured that Co-op Radio did not continue to employ someone who couldn't perform her basic duties - including important regulatory tasks.

15. While we hired a new Financial Administrator, gaps were covered by other staff. I immediately contacted the Commission to determine whether or not the Annual Returns had been filed. The Commission staff that I spoke to said that they could not confirm either way. I decided to file the forms myself as soon as possible – just in case they hadn't been filed. I did this in early January – a little over 3 weeks after the new deadline.
16. On Feb. 15 of this year, I received an e-mail from a Commission staff person seeking additional information. She'd been trying to contact me via the old Financial Administrator's e-mail address. As soon as I received the notice, I filed the requested documents the very same day.
17. To sum up: The staff people responsible for both delays are no longer employed with the station. Although we were not aware until recently that the 2009 Return was submitted late, we realize that we didn't have sufficient oversight structures in place to ensure that the deadline was met. The delay in 2010 was largely due to an error by a staff person whose inability to perform her duties was identified and addressed expediently. The turnover in staff at the time of the deadline for Annual Returns also contributed to the delay in filing our 2010 Return. In response to these two incidents, we've implemented the following new procedures to ensure that this does not happen again.
18. Now, as procedure, the training of all new Financial Administrators explicitly includes the requirement that Annual Returns must be submitted by Nov. 20. As procedural policy we now include the Annual Return deadline, along with other official deadlines, in a calendar that is reviewed at every staff meeting and every Board meeting. The Board and staff are required to confirm at each meeting that designated staff have met deadlines for the relevant month, and that progress is being made toward meeting upcoming deadlines. If progress is not being made, another staff person is assigned to assist or take over the task. In this way, all levels of the station's management and governance are aware of the regulatory requirements and ensure they are met. In our reply to the interveners, we included this new policy, which we refined at our last Board meeting so that it is more specific. We've also created a new e-mail account to be used

by all official bodies, including the CRTC. E-mails sent to this address are received by *all* Co-op Radio staff. This ensures that we will not miss e-mails when staff turnover occurs in the future.

19. We have taken this incident very seriously and we've implemented measures to ensure that we will always be in compliance with Section 9 of the Regulations in the future. We are confident that our response to this instance of non-compliance will be effective and will ensure full compliance from now on.
20. We do not feel that a mandatory order will increase the incentive for us to comply – we are now doing everything possible can to ensure full compliance.
21. We take full responsibility for the mistakes we make. As some of our interveners point out, we operate on an extremely small budget. Four part-time staff must co-ordinate the activities of 400 volunteers, provide training and manage all administrative requirements. As staff we are constantly performing a number of very vital duties for the organization and are juggling full-time workloads in part-time hours. We believe our problems with achieving full compliance in the past are simply due to a lack of resources.
22. But we are not asking the Commission to approve our application out of sympathy for the challenges that we face or because we're poor. Rather, we want you to be confident that we take our regulatory responsibilities seriously and that we are capable of following through with the commitments that we make. We've demonstrated our ability to identify gaps in our organization and to create procedures to ensure that those gaps are filled.
23. Over the past 10 years, I've witnessed our organization grow tremendously. I've seen new systems developed and implemented that ensure consistent high capacity in the organization. As some of our interveners noted, we have comprehensive training for all volunteers and all levels of governance. We require all programmers to sign contracts agreeing to abide by all regulations and internal policies. We are currently working on developing an additional system that will require volunteers to affirm this commitment each year. We'll begin implementing that system at this year's AGM and training weekend in November. We're also updating our programming policies this year to

ensure that our expectations of volunteer conduct and programming content are absolutely clear.

24. What the record shows is that we've been non-compliant with 3 different sections of the Radio Regulations. Each time we made a mistake, we fixed the problem and have not repeated the same mistake twice. We've demonstrated that we are able to address our shortcomings quickly and effectively. There is no question in that.
25. However, we understand that the Commission may question whether we will continue to be found in non-compliance with *other* sections of the Regulations in future - whether we need to make more mistakes in order to fix them. As you are aware from the Community Radio policy review hearing last year, our entire sector faces challenges. Most of us struggle just to get by. We juggle several mandates - on the one hand, we have a responsibility to volunteer-based programming and community-based governance. On the other hand, we have a commitment to full compliance with the Regulations.
26. There are lots of opportunities to make mistakes when you're constantly in survival mode, and when you have high volunteer participation. But, given our day to day reality, we want the Commission to have confidence that compliance is one of our top priorities.
27. In addition to the policy on calendar deadlines we created, we have also compiled a document listing all the sections of the Radio Regulations, Broadcasting Act and Conditions of License that pertain to us as a community radio station. We submitted this document as an appendix to our response to our interveners. This document helps us identify the policies and procedures that we already have in place to address each of the regulations.
28. We have the same goal. The Commission wants us to be in compliance 100% of the time. We want to be in compliance 100% of the time. As our stakeholders and supporting interveners have submitted, we conduct ourselves competently and professionally. We're constantly improving our systems to address the shortfalls that

we face. We've taken this show-cause hearing as a very serious indication that there were additional gaps in our systems that needed to be filled.

29. We've acted swiftly in addressing these gaps. Since receiving notice from the Commission, we've compiled a calendar of all relevant regulatory deadlines; we've approved a new policy and procedure to ensure that these deadlines are met and reviewed at every meeting of the Board and Staff; and we've compiled a list of all other regulatory requirements to ensure that there are no other gaps in our awareness or ability to comply with them.

30. In Broadcasting Decision CRTC 2010 - 607, the Commission was faced with a similar situation to our Notice. C-F-A-R AM in Flin Flon, Manitoba is a commercial station that was in non-compliance for 3 consecutive license terms. In 2004, they received a 4-year term due to non-compliance with both the Regulations relating to Canadian content for Category 2 music selections and with a condition of their license. In 2008, they received a 2-year term due to non-compliance with the SAME requirements. In 2009, C-F-A-R did not submit their Annual Returns on time. They explained that this was due to extraordinary circumstances and assured the Commission that they were taking steps to ensure that this wouldn't happen again. The Commission was satisfied with their response and granted them a 7 year license term.

31. There are many similarities between our situation and that of C-F-A-R. Both C-F-R-O and C-F-A-R had the same license terms during the same years. We were both found in non-compliance for 3 consecutive terms. The difference is that our station was never found in non-compliance with the SAME requirement more than once. We've demonstrated our ability to remedy problems so that they do not persist.

32. In its decision about C-F-A-R, the Commission said this in paragraph 10:
 - a. "When a station is found to be in non-compliance, its broadcasting licence is usually renewed for a short-term period to permit a further review of its compliance within a reasonable period of time. However, the Commission notes that the licensee has taken the necessary measures to comply with the requirements for which it was previously found to be in non-compliance. Further,

the Commission is satisfied with the licensee's explanation of the circumstances surrounding its current non-compliance and with the steps taken by the licensee to ensure timely filing of its annual returns in the future. Accordingly, under these circumstances, the Commission considers that a departure from the standard practice is justified and that it is appropriate to renew the broadcasting licence for C-F-A-R for a seven-year term."

33. We hope that the Commission will be equally satisfied with our explanation of our circumstances and our assurance that our Annual Returns will be filed in a timely manner in the future. In addition, we hope that the Commission will see how seriously we've taken this warning and how well we've addressed it.

34. Many of our interveners noted how important Co-op Radio is to our community. As members, listeners, supporters and volunteers, these people regularly witness the impact that our station has on our community. They listen to our programming - 50% of which is locally-relevant spoken word that addresses the needs of our diverse community. They listen to the music, arts and non-English programming that provides them with content they cannot hear anywhere else. Their comments illustrate that our programming regularly exceeds our own mandate and the requirements set out in the Regulations.

35. As you are aware, Co-op Radio is potentially on the cusp of some big changes. We're eagerly awaiting another decision by the Commission regarding a potential swap of frequencies with C-K-P-K FM. This swap would provide Co-op Radio with the technical, outreach and financial support to increase our sustainability and our ability to meet our mandate. The work involved in creating this opportunity demonstrates the maturity of our organization. Faced with limited resources, we found a solution that meets the needs of our members and that ensures a strong future for us.

36. We have a strong past and we have a strong future ahead. We have made mistakes but far, far greater are our successes. We've mentored new community and co-operatively owned stations. We've provided thousands of community members with free training

and skills-building opportunities that have contributed positively to their lives. We've worked with community partner organizations. We've remained a relevant and consistent institution within our community and provided high-quality, diverse programming for over 35 years. We have demonstrated our continued ability to address the challenges we face responsibly while remaining true to our mandate.

37. We respectfully submit that the interests of our community will be best served by renewing our license for a full 7 year term. In the alternative, we hope the Commission will choose to renew our license for a short term so that we may demonstrate our ability to comply with the regulations in a timely manner.

38. We are happy to answer any questions you may have at this time.

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