

**CRTC Public Hearing 2011-188
CFRO-FM Vancouver Co-operative Radio
Application 2011-0165-9**

Presentation of:

**National Campus and Community Radio Association
Association nationale des radios étudiantes et communautaires**



Thursday, May 19, 2011

1. Good afternoon. I appreciate the opportunity to speak today. I'm Shelley Robinson, the Executive Director of the National Campus and Community Radio Association/l'Association nationale des radios étudiantes et communautaires, also known as NCRA/ANREC. With me is Kim Vallière, the NCRA's new Membership Coordinator.
2. The NCRA is a not-for-profit association committed to volunteer-driven, non-profit community-oriented radio across Canada. We have more than 70 licensed members. Our goals are to ensure stability and support for individual stations and promote the long-term growth and effectiveness of the sector.
3. We're here today to support CFRO in their efforts to achieve ongoing regulatory compliance moving forward. We also want to ensure our other members learn from CFRO's experience. Finally, we ask the Commission to implement constructive measures based on sector-wide challenges with compliance.
4. We recognize that compliance with legislation and policies is of the utmost importance. We also appreciate that it's every licensee's responsibility to be fully apprised of its regulatory obligations, and to comply with the Regulations, regardless of their circumstances. In this case, we believe the focus should be on CFRO's solid governance and the solutions they've implemented to ensure that their regulatory mistakes aren't repeated.
5. First, a preliminary comment: we mainly communicate with our members from our Ottawa office — we're not at stations, aside from occasional visits. We rely on their staff and boards of directors to apprise us of issues and problems, solutions, and progress. Sometimes this means we base our comments on what we've heard, rather than what we know first-hand.
6. But in this case, the NCRA's Regulatory Affairs Director, Freya Zaltz, was elected to CFRO's board in 2010. For the past year she's been attending their board,

programming committee, and finance committee meetings, visiting the station, and helping draft and implement new policies to address compliance issues. Although she alone can't guarantee anything, her involvement might help reassure the Commission that the NCRA has direct knowledge of CFRO's efforts to identify and address important issues.

7. Based on what we've seen, CFRO's governance structures and policies are functional and strong enough to resolve problems when they arise. Although they're experiencing financial difficulties, this isn't new. Nor is the station in crisis mode. Instead, CFRO has steadily improved its internal practices and services and increased its capacity since it was first licensed in 1974.
8. CFRO has also consistently reached out to groups under-represented in mainstream media. For example, Aboriginal programmers produce several locally relevant programs in Salish languages. It's also home to iconic programs like "Arts Rational", "Redeye", and "Radio Bandcouver", featuring public affairs and local music.
9. Regarding CFRO's non-compliance with the Radio Regulations, we note that they, and their more than 350 volunteer programmers, have consistently made good faith efforts to understand and comply with all requirements. We're informed that CFRO usually exceeds the minimum levels for Canadian content, spoken word, and category 3 music programming. We believe the instances of non-compliance identified by the Commission haven't illustrated ongoing deficiencies. And in each case, CFRO took steps to address the root problem.
10. For example, in 2009, although CFRO's staff collective confirmed that the Financial Manager filed that year's Annual Return, they didn't know she'd filed it late until contacted by the Commission this year.

11. Then in 2010, just as Annual Returns were due, CFRO's subsequent Financial Manager was terminated for failure to perform her duties. Although CFRO should have filed its Annual Return on time, we think it's significant that other staff did so immediately upon realizing that it might not have been done, and submitted a letter with the Return explaining the circumstances.
12. CFRO then made prompt improvements to its oversight mechanisms to prevent these problems from re-occurring. This included: creating an annual calendar listing all official deadlines, which staff review bi-weekly, and the board of directors reviews bi-monthly; requiring written proof that each deadline is met on time; and providing more training for the Financial Manager position.
13. Regarding CRFO's 2006 category 2 Canadian content deficiency, we believe they provided reasonable explanations for the 2.2% shortage and took steps to ensure it would not happen again. Specifically, the Commission and CFRO assigned the same songs different category classifications; the Commission didn't recognize some original audio/sound art productions that CFRO counted as CanCon; and a regular volunteer programmer missed one week, and his volunteer replacement didn't play sufficient Canadian content. Regarding that last point, this problem is not unusual in organizations that rely on large numbers of volunteers who face occasional illnesses and scheduling conflicts.
14. We believe CFRO took appropriate steps to rectify this situation by requiring all replacement programming be the same genre as regularly scheduled programming, reminding programmers of Canadian Content requirements, and reviewing logs for compliance more often.
15. Finally, CFRO's response was similarly prompt in 2004 when their audio logs weren't audible. Within a few months they raised money to replace their outdated VHS logging system with a digital one, and they've had reliable quality logs ever since.

16. CFRO's responses to these issues suggest to us that they're dealing successfully with sector-wide challenges posed by inadequate funding, poor quality equipment, difficulty attracting and retaining experienced staff due to low salaries, and a large pool of volunteer programmers who occasionally make mistakes despite excellent training and supervision.
17. These challenges don't excuse CFRO or any other c/c station from complying with policies and regulations. However, we ask the Commission to recognize the unique role c/c broadcasters play in the Canadian broadcasting system and to support them in compliance as part of their commitment to their communities.
18. In the recent c/c policy review, the Commission showed a keen interest in ensuring that our stations have sufficient volunteer participation, and create diverse and local programming. We support these initiatives, but we believe they come at a cost. Diverse local content produced by volunteers can be a messy and time-consuming process. The more people involved, the more mistakes get made, no matter how comprehensive the station's training and supervision.
19. CFRO is a leader in this kind of work: it has the most volunteers of any of our members, and an active committee structure for people to get involved beyond the mic. But monitoring large numbers of volunteers for compliance requires a huge investment of staff time. CFRO currently has four part-time staff on an already tight budget.
20. So we'd like to see some flexibility in assessment procedures to reflect the realities of our sector. For instance, the Commission currently monitors one week at a time. That means it requires only a few small errors for a station to fall below the required levels for that week, despite long-term compliance and even over-performance. We further note that CFRO, like many other c/c

stations, uses paper logs, which make it hard to evaluate compliance within a given week. This is very different from the sophisticated software programs tracking pre-programmed playlists at commercial stations.

21. To this end we believe it would help if the Commission broadened the assessment period to four broadcast weeks for stations found in non-compliance. We think this longer assessment period would more accurately represent stations' compliance, and illustrate whether the problem is systemic and ongoing, or due to a single human error.
22. Regarding Canadian content, we appreciate the Commission's proposed changes to the category 3 experimental music definition. This will help. Further refining content categories will also address the range of musical diversity played at c/c stations and help avoid unintentional non-compliance in the future.
23. We'd also like to see the Commission take into account how egregious any non-compliance was, the licensees' degree of good faith responsiveness when non-compliance is brought to their attention, and their past history in meeting the requirements of the same section of the Regulations. In each case we believe CFRO acted as a responsible community broadcaster.
24. We further believe it's important to evaluate stations' efforts to ensure ongoing compliance. We recommend that after stations make reasonable and effective improvements, previous instances of non-compliance shouldn't be held against them in future proceedings if they haven't re-occurred.
25. In this proceeding, CFRO was asked to "show cause why the Commission should not suspend or refuse to renew" their broadcasting license. We strongly discourage the Commission from taking this action.

26. On all occasions when CFRO was notified that it was in non-compliance, they promptly made effective changes to technology, training, policies and procedures, and they've complied with those sections of the Regulations on all subsequent occasions. Suspending or refusing to renew CFRO's license would be extremely detrimental and unnecessarily punitive to CFRO's hundreds of volunteer programmers, the communities it serves, the c/c radio sector, and the larger Canadian broadcasting system.
27. The Commission also asked whether a mandatory order should be issued requiring CFRO to comply with s. 9(2) of the Regulations. CFRO has already demonstrated their commitment and ability to comply through their actions, so we believe a mandatory order isn't necessary.
28. In fact we discourage the Commission from issuing mandatory orders to stations in our sector whenever possible. We think this only increases stations' stress and fear of more severe repercussions without supporting them to develop better systems to ensure future compliance.
29. C/c stations want and intend to be fully compliant, but some encounter legitimate challenges. The NCRA is increasingly proactive with our members around compliance issues and we suggest that the Commission can also support this work by providing clear summaries of regulatory requirements, sample documents, how-to guides, and advice, which would be more constructive and effective than punitive measures.
30. We believe this work will help CFRO and other c/c stations as they continue to offer diverse, high-quality local programming while meeting their regulatory requirements. It also ensures that all three sectors of Canadian broadcasting are healthy and vibrant.
31. Thank you.