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11 March 2004

By FAX: (416) 642-3779

Ms. Kathleen McNair
Vice President, Business & Regulatory Affairs
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Corus Entertainment
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Dear Ms. McNair:

This letter addresses a complaint by Standard Radio Inc. (Standard) concerning the programming of CKDK-FM Woodstock, Ontario and CING-FM Hamilton, Ontario, two radio stations owned by Corus Entertainment Inc. (Corus).

The complaint by Standard

On 5 March 2003, Standard submitted a complaint in which it stated that its monitoring and research indicated that Corus was operating CKDK-FM Woodstock and CING-FM Hamilton in a manner that targets audiences in the nearby urban markets of London, in the case of CKDK-FM, and Toronto, in the case of CING-FM. Standard stated that studio facilities for CKDK-FM had been moved to London and studio facilities for CING-FM had been moved to Toronto. Standard further noted that the stations identified themselves in a generic way, and that Corus had registered CKDK-FM with the BBM Bureau of Measurement (BBM) as a London station and CING-FM as a Toronto station.

Standard stated that this programming strategy has had a negative impact on the quality and level of local radio service provided in Woodstock and Hamilton, and that the two stations were neglecting the communities that they were licensed to serve. Standard argued that CKDK-FM broadcasts little local news in Woodstock, and neither station broadcasts weather reports specific to their local communities. Standard submitted that radio stations are required to provide local programming, including spoken word programming, that is reflective of the communities that they are licensed to serve.

Furthermore, Standard contended that the way in which Corus was operating CKDK-FM and CING-FM was having a negative impact on radio stations licensed to serve the large urban markets that these two stations now target. In this regard, it noted that, according to the Fall 2002 BBM survey, CKDK-FM was ranked third in the London market. Standard further submitted that, even though CKDK-FM and CING-FM were now targeting the larger markets of London and Toronto, they were contributing to Canadian talent development the smaller amounts required for Woodstock and Hamilton stations.

Standard also argued that, by effectively operating additional radio stations in each of the London and Toronto markets, Corus was in breach of the Commission's common ownership policy set out in *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 29 April 1998 (Public Notice 1998-41), which provides that:

... in markets with less than eight commercial stations operating in a given language, a person may be permitted to own or control as many as three stations operating in that language, with a maximum of two stations in any one frequency band. In markets with eight commercial stations or more operating in a given language, a person may be permitted to own or control as many as two AM and two FM stations in that language.

Standard argued that Corus already owned and operated two FM stations and one AM station in each of London and Toronto before it changed the programming orientation of CKDK-FM and CING-FM. Standard submitted that, by operating CKDK-FM as a London station and CING-FM as a Toronto station, Corus was operating three FM stations and one AM station in both London and Toronto, a level that exceeded the number of stations permitted under Public Notice 1998-41.

In light of its concerns, Standard requested that the Commission conduct an inquiry and subsequently issue a decision that would require Corus to either:

- (a) adhere to the letter and spirit of its radio licences for CKDK-FM Woodstock and CING-FM Hamilton, respectively, by,
 - (i) moving the studios for the stations out of London and Toronto, and back to Woodstock and Hamilton, respectively;
 - (ii) providing on a regular daily basis spoken word programming with direct and particular relevance to the Woodstock and Hamilton communities respectively, including local news, traffic, weather and sports, and the promotion of local events and activities;

(iii) ceasing to provide programming that targets the London and Toronto markets respectively;

(iv) ceasing to advertise and promote the two stations as serving the London and Toronto markets respectively; and

(v) terminating the registration of the two stations with BBM for the London and Toronto markets; or

(b) show cause why Corus should not be required to divest one of the three FM radio stations it currently owns in the London and Toronto markets in order to comply with the requirements of the Commission's common ownership policy stated in Public Notice 1998-41.

The reply by Corus

Corus filed its reply on 7 April 2003. Corus indicated that, although it had established satellite studios in London for CKDK-FM and in Toronto for CING-FM, it still maintained studios in Woodstock and Hamilton. Corus noted that commercial radio stations are entirely dependent on advertising revenues, and that stations that are adjacent to larger commercial markets generally attempt to solicit advertising revenues in the larger markets as well as from their local business areas.

Corus further considered that paying a fee to BBM to have its stations listed in London and Toronto did not mean that CKDK-FM and CING-FM had abandoned their principal markets. According to Corus, commercial radio stations adjacent to larger markets face a challenge in selling national advertising. Therefore, as a means to demonstrate the value of purchasing national advertising on its Woodstock and Hamilton stations, Corus had registered CKDK-FM and CING-FM in the BBM commercial spill book of each station's adjacent market. Corus named several other stations that had registered in larger adjacent markets, including Standard's Selkirk station CFQX-FM, which is registered in Winnipeg. Corus further argued that using generic station identifications that do not make specific reference to the communities where the stations are situated is a common industry practice.

Corus indicated that, contrary to Standard's position, CKDK-FM continued to provide programming that was relevant to Woodstock, and CING-FM continued to provide programming that was relevant to Hamilton. It was of the view that Standard's analysis, which examined a single day of programming, was insufficient to demonstrate that the stations were not fulfilling their local mandates. While noting that the amount of news and information on CKDK-FM and CING-FM was limited because of the musical orientation of their formats, Corus considered that its programming met the requirements of the Commission. In this regard, Corus argued that the Commission had:

... revised its policies and regulations for commercial FM stations regarding news and spoken word programming. The CRTC deleted the requirement that FM stations devote at least 15% of programming to spoken word content and broadcast at least 3 hours of news each week. Instead a new local programming requirement was introduced for commercial FM stations in markets served by more than one private commercial station that wished to solicit local advertising. Such stations are required to devote at least one-third of the broadcast week to local programming in order to solicit local advertising. Both CKDK-FM and CING-FM exceed the one-third local programming requirement, despite the fact that CKDK-FM is the only commercial FM station licensed to serve Woodstock, Ontario and, therefore, is not required to broadcast local programming in order to solicit advertising.

Corus further considered that Standard's argument that CKDK-FM and CING-FM were having a negative effect on existing stations in London and Toronto was a tenuous one, given Standard's dominance in those two markets. Corus further indicated that it did not consider that Standard's argument with respect to the level of Canadian talent development obligations related to the current dispute.

Corus also denied that it was in breach of the ownership policy set out in Public Notice 1998-41, which limits the number of radio stations that a person may control in a single market.

Relevant policies and conditions of licence

A number of Commission policy statements are particularly relevant to this complaint. *Policies for Local Programming on Commercial Radio Stations and Advertising on Campus Stations*, Public Notice CRTC 1993-38, 19 April 1993 (Public Notice 1993-38) states:

With respect to local programming, the Commission is of the view that radio stations must continue to provide programming that addresses the needs of the communities they serve. Subparagraph 3(1)(i)(ii) of the *Broadcasting Act* states that programming provided by the Canadian broadcasting system should "be drawn from *local*, regional, national and international sources" (emphasis added). The radio industry has historically been the sector of the broadcasting system that has provided the lion's share of programming addressing local issues and concerns. As well, in many communities not served by local daily newspapers or television stations, local radio stations are the only *daily source* of local news, information, and emergency messages. [Emphasis added]

For the purposes of this policy, local programming was defined as:

... programming that originates with the station or is produced separately and exclusively for the station. It does not include programming received from another station and rebroadcast either simultaneously or at a later time; nor does it include network or syndicated programming that is five minutes or longer unless it is produced either by the station or in the local community by arrangement with the station.

In their local programming, licensees must include spoken word material of *direct and particular relevance* to the community served, such as local news, weather and sports, and the promotion of local events and activities.
[Emphasis added]

Public Notice 1998-41 reiterated:

In their local programming, licensees must include spoken word material of direct and particular relevance to the community served, such as local news, weather and sports, and the promotion of local events and activities.

In light of the above, the following conditions of licence, which are standard for commercial FM stations,¹ have been imposed on both CKDK-FM and CING-FM:

4. Subject to paragraph 6, the undertaking shall be operated on the basis of the contours and particulars contained in the approved application.
9. Subject to paragraph 6, it is a condition of licence for commercial FM stations serving markets other than single-station markets (Public Notice CRTC 1993-121), that the licensee refrain from soliciting or accepting local advertising for broadcast during any broadcast week when less than one-third of the programming aired is local. The definition of local programming shall be as set out in Public Notice CRTC 1993-38, as amended from time to time.

The Commission's preliminary view

Even though CKDK-FM is the only commercial FM station licensed to serve Woodstock, Woodstock does not, contrary to Corus' assertion, appear to meet the

¹ The full list of these standard conditions of licence is set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999.

definition of a single-station market set out in *Local programming for FM radio – Definition of a single-station market*, Public Notice CRTC 1993-121, 17 August 1993 (Public Notice 1993-121). Public Notice 1993-121 states:

A single-station market is any community that only one commercial FM radio station has been licensed to serve, provided that:

1. the 3 mV/m contour of this FM station does not encompass a significant part of a second community that another AM or FM commercial station has been licensed to serve and whose population is equal to, or greater than, that of the first community, and

2(a) the community is not situated within the 3 mV/m contour of another other licensed commercial FM station, or

2(b) if so situated, a community whose distance (centre to centre) from the community served by the other station is 60 kilometres or more.

It is noted that Woodstock is situated within the 3 mV/m contour of several licensed commercial radio stations that originate from communities within 60 kilometres of Woodstock, including CJBX-FM London, CKOT-FM Tillsonburg and CHYM-FM Kitchener.

CKDK-FM and CING-FM must therefore, by condition of licence, devote at least one-third of the broadcast week (42 hours) to local programming during any broadcast week in which they solicit or accept local advertising for broadcast.

It is also to be noted that the licences for both CKDK-FM and CING-FM provide that the undertakings are to be operated at 103.9 MHz and 95.3 MHz at Woodstock and Hamilton respectively, “with local programming.” However, neither licence specifies a studio location. Therefore, while Corus cannot be found in breach of its licences simply on the basis that some of its programming does not originate from studios in Woodstock and Hamilton, both CKDK-FM and CING-FM must include “local programming” in their schedules.

The Commission performed an analysis of the programming broadcast by both CKDK-FM and CING-FM on 9 April 2003. This analysis revealed that CKDK-FM referred to itself as the “The Hawk” or “103.9 The Hawk” or as “Classic Rock station, 103.9, The Hawk” with no mention of any localities. The focus of news, sports, weather and activities was London, and no news stories of particular relevance to Woodstock were broadcast. In the news, one particular story identified the focus as: “... here in London ...” In one reference to an activity in Woodstock, the announcer said: “... I’ll be out in Woodstock for the events starting I think at 9:30 in the morning ... see you in

Woodstock this coming Sunday ...” Thus, during a promotion of a community event in Woodstock, the announcer gave the impression that he was not in the town of Woodstock. At no time during the programming that was analyzed, did CKDK-FM refer to itself as a Woodstock station. Weather reports on CKDK-FM were generic, and there were no traffic reports specifically dealing with Woodstock.

The analysis for CING-FM revealed that while CING-FM was, from time to time, identified as a Hamilton station, it was also identified as a Toronto station. The weather reports on CING-FM included Hamilton, but also made reference to Toronto. Similarly, while traffic reports dealt predominantly with Toronto, they also included some references to Hamilton traffic. A limited amount of Hamilton local news was broadcast. The station identification announcements made no references to the market served by the station.

On the basis of its own analysis, as well as the analysis provided by Standard, the Commission is concerned that the programming broadcast on CKDK-FM and CING-FM, respectively, appears to contain very limited amounts of local news or other programming of particular interest to residents of Woodstock and Hamilton. The Commission considers that Corus has not demonstrated that the programming on CKDK-FM and CING-FM sufficiently includes spoken word material of direct and particular relevance to the community served, such as local news, weather and sports, and the promotion of local events and activities. In light of the conditions of their licences and the policy statements set out above, CKDK-FM must provide news and events coverage that addresses the particular needs and interests of Woodstock residents, and CING-FM must provide news and events coverage that addresses the particular needs and interests of Hamilton residents.

In order to fulfill the condition of licence with respect to local programming, as well as the condition requiring that CKDK-FM and CING-FM be operated on the basis of the particulars contained in the approved applications, Corus must ensure that it broadcasts more programming that qualifies as local programming on CKDK-FM and CING-FM. Specifically, the Commission considers that Corus should:

- include coverage of news, sports and events of particular relevance to the communities each station is licensed to serve on a regular basis each day;
- include references to the areas each station is licensed to serve in station identification announcements, as well as in traffic and weather reports; and

- use the studio facilities that they maintain in the communities they are licensed to serve for direct broadcasts.

Based on the evidence before it, the Commission is concerned that Corus appears to have been operating CKDK-FM Woodstock and CING-FM Hamilton so as to expressly target the audiences in the markets of London and Toronto, respectively. The Commission considers that, if CKDK-FM and CING-FM are effectively serving London and Toronto rather than Woodstock and Hamilton, the further concern is raised that Corus may not be in compliance with the Commission's policy regarding the number of radio stations that may be owned in a particular market as is set out in a passage from Public Notice 1998-41 that was previously quoted in this letter

The Commission will shortly perform an extensive monitoring of a full week of the programming broadcast by CKDK-FM and CING-FM to determine that each station is providing a sufficient level of local programming that is of direct and particular relevance to Woodstock and Hamilton, and is, therefore, operating in compliance with its condition of licence related to local programming. Once it is in possession of these monitoring results, the Commission will be in a position to make its final decision on this complaint and will address the specific remedies sought by Standard.

Yours sincerely,

Diane Rhéaume
Secretary General

cc. Mr. Gary Slaight
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