



## Broadcasting Decision CRTC 2011-544 and Broadcasting Order CRTC 2011-545

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Route reference: 2011-188

Ottawa, 31 August 2011

**La Radio communautaire du comté**  
Rimouski and Mont-Joli, Quebec

*Application 2011-0423-1, received 2 March 2011*  
*Public hearing in the National Capital Region*  
*17 May 2011*

### **CKMN-FM Rimouski and Mont-Joli – Licence renewal and issuance of a mandatory order**

*The Commission **renews** the broadcasting licence for the French-language community radio station CKMN-FM Rimouski and Mont-Joli from 1 September 2011 to 31 August 2015. This short-term renewal will allow for an earlier review of the licensee's compliance concerning the filing of annual returns.*

*The Commission also issues a mandatory order pursuant to section 12(2) of the Broadcasting Act requiring the licensee to comply at all times with section 9(2) of the Radio Regulations, 1986 relating to the filing of annual returns. The order is set out in Appendix 1 to this decision.*

#### **Introduction**

1. The Commission received an application by La Radio communautaire du comté (Radio du comté) to renew the broadcasting licence for the French-language community radio programming undertaking CKMN-FM Rimouski and Mont-Joli, which expires 31 August 2011. The Commission did not receive any interventions in connection with this application.
2. In Broadcasting Notice of Consultation 2011-188, the Commission stated that Radio du comté was in apparent non-compliance with section 9(2) of the *Radio Regulations, 1986* (the Regulations) concerning the filing of annual returns for the 2005-2006, 2006-2007 and 2009-2010 broadcast years. The Commission stated that it intended to inquire into the apparent non-compliances at the 17 May public hearing. The Commission further noted that in Broadcasting Decision 2005-263, the station was granted a four-year short-term renewal<sup>1</sup> until 31 August 2009 due to its failure to

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<sup>1</sup> The Commission administratively renewed the broadcasting licence for CKMN-FM from 1 September 2009 to 31 August 2011 in Broadcasting Decision 2009-334.

comply with the Regulations, in particular as they relate to the provision of logger tapes and playlists.

3. The Commission stated that it expected the licensee to show cause at the hearing why a mandatory order requiring it to comply with section 9(2) of the Regulations should not be issued.

### **Commission's analysis and determinations**

4. After examining the application in light of applicable regulations and policies, the Commission considers that the issue to be addressed in its determinations relates to the filing of complete annual returns.
5. Under section 9(2) of the Regulations, on or before 30 November of each year, licensees are required to file an annual return and statement of accounts for the broadcast year ending the previous 31 August. CKMN-FM's annual returns for the 2005-2006, 2006-2007 and 2009-2010 broadcast years were filed on 12 December 2006, 5 March 2008 and 13 March 2011 respectively.
6. In a letter dated 13 March 2011, the licensee indicated that the annual returns were filed late due to changes in the station's personnel and in particular to the departure of three successive general managers, as well as a failure to share information with staff.
7. At the hearing, the licensee stated that to comply with its regulatory obligations, it will ensure that these obligations are more effectively communicated to each member of the board of directors and that its accounting firm prepares all the required documents by 30 November of each year.
8. When a station is found to be in a situation of non-compliance, its licence is usually renewed for a shorter period to enable the Commission to review the licensee's compliance at an earlier date. In this instance, the Commission notes the licensee's explanations concerning its current non-compliances and the measures it has taken to comply in the future with the requirements concerning the filing of complete annual returns. However, the Commission is not satisfied that the licensee understands the seriousness of the non-compliances and the importance of a notice to appear at a hearing by the Commission. The Commission notes that the licensee decided to send an employee to the hearing to represent the station and answer questions relating to the non-compliances rather than a person in authority, such as the person who is responsible for the signature of annual reports, a member of the board of directors or even the station's general manager. The Commission also notes that the licensee's representative was unable to answer all of the Commission's questions at the hearing.
9. The Commission also notes that the licensee put measures in place to ensure that it files its annual returns no later than 30 November of each year, in accordance with the Regulations. However, the licensee has not satisfied the Commission that it can fully meet this obligation or that these measures will be sufficient to rectify the situation.

The Commission further notes that this is the second consecutive licence term in which the licensee has been found in a situation of non-compliance.

## Conclusion

10. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to dealing with radio stations found in non-compliance. The Commission noted in particular that each instance of non-compliance will be evaluated in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also noted that it will consider the circumstances leading to the non-compliance in question, the licensee's arguments, and the measures taken to rectify the situation.
11. The Commission also indicated that the possible sanctions include the following: short-term licence renewal, imposition of conditions of licence, mandatory orders, or the non-renewal or suspension of the licence.
12. Consistent with the revised approach to non-compliance by radio stations set out in Broadcasting Information Bulletin 2011-347, the Commission considers that a short-term renewal is appropriate for CKMN-FM. Accordingly, the Commission **renews** the broadcasting licence for the French-language community radio programming undertaking CKMN-FM Rimouski and Mont-Joli from 1 September 2011 to 31 August 2015. This short-term renewal will allow for an earlier review of the licensee's compliance concerning the filing of annual returns. The licence will be subject to the **conditions of licence** set out in Appendix 2 to the present decision.
13. The Commission also issues a mandatory order under section 12(2) of the *Broadcasting Act* (the Act) requiring the licensee to comply at all times with section 9(2) of the Regulations relating to the filing of annual returns. The order is set out in Appendix 1 to this decision. Pursuant to section 15 of the Act, the order will be filed immediately with the Federal Court and will become an order of that court. Failure to comply with Federal Court orders may result in recourse to the compliance procedures of that court.
14. The Commission notes that any future non-compliance could lead to additional measures, including short-term renewal, suspension, non-renewal or revocation of the licence pursuant to sections 9 and 24 of the Act.

Secretary General

## Related documents

- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2011-188, 16 March 2011

- *Administrative renewals*, Broadcasting Decision CRTC 2009-334, 9 June 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CKMN-FM Rimouski and Mont-Joli – Licence renewal*, Broadcasting Decision CRTC 2005-263, 28 June 2005

*\*This decision is to be appended to the licence.*

## **Appendix 1 to Broadcasting Decision CRTC 2011-544**

### **Broadcasting Order CRTC 2011-545**

Pursuant to section 12(2) of the *Broadcasting Act*, La Radio communautaire du comté, licensee of the station CKMN-FM Rimouski and Mont-Joli, is hereby ordered to comply at all times within the term of the licence granted in *CKMN-FM Rimouski and Mont-Joli – Licence renewal and issuance of a mandatory order*, Broadcasting Decision CRTC 2011-544, 31 August 2011, with the requirements contained in section 9(2) of the *Radio Regulations, 1986*, which reads as follows:

- (2) On or before November 30 of each year, a licensee shall submit to the Commission a statement of accounts, on the annual return of broadcasting licensee form, for the year ending on the previous August 31.

## Appendix 2 to Broadcasting Decision CRTC 2011-544

### Term, conditions of licence and encouragement

#### Term

The licence will expire 31 August 2015.

#### Conditions of licence

1. The licence will be subject to the conditions set out in *New licence form for community radio stations*, Public Notice CRTC 2000-157, 16 November 2000, with the exception of conditions 1 and 9.
2. If the licensee produces at least 42 hours of programming during any broadcast week, it shall adhere to the CAB's *Equitable Portrayal Code*, as amended from time to time and approved by the Commission.
3. In each broadcast week, the licensee shall devote no less than 15% of its programming to Spoken Word (content category 1), which is comprised of News (subcategory 11) and Spoken word – other (subcategory 12), as defined in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time. The entirety of this spoken word programming shall be locally produced (that is, produced by or exclusively for the licensee).

#### Encouragement

In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages the licensee to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.