



## Broadcasting Decision CRTC 2011-548

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Route reference: 2011-188

Ottawa, 31 August 2011

**Radio Port-Cartier inc.**  
Port-Cartier, Quebec

*Application 2011-0432-2, received 5 March 2011  
Public hearing in the National Capital Region  
17 May 2011*

### **CIPC-FM Port-Cartier – Licence renewal**

*The Commission **renews** the broadcasting licence for the French-language commercial radio station CIPC-FM Port-Cartier from 1 September 2011 to 31 August 2014. This short-term renewal will allow for an earlier review of the licensee's compliance with its conditions of licence relating to the broadcast of French-language vocal music, the provision of a machine readable record of the matter broadcast and its Canadian content development contributions.*

#### **Introduction**

1. The Commission received an application by Radio Port-Cartier inc. (Radio Port-Cartier) to renew the broadcasting licence for the French-language commercial radio programming undertaking CIPC-FM Port-Cartier, which expires 31 August 2011.
2. In Broadcasting Decision 2007-395, the Commission renewed CIPC-FM's licence for a period of four years after noting that the licensee was not in compliance with its condition of licence relating to contributions to Canadian talent development (CTD) under the Canadian Association of Broadcasters' former CTD plan.
3. In Broadcasting Notice of Consultation 2011-188, the Commission noted that the licensee was in apparent non-compliance with section 2.2(10) of the *Radio Regulations, 1986* (the Regulations), which relates to the broadcast of French-language vocal (FLV) music between 6 a.m. and 6 p.m. from Monday to Friday, for the broadcast week of 14-20 February 2010; with sections 8(5) and 8(6) of the Regulations, which relate to the provision of complete logger tapes; and with section 15 of the Regulations, which relates to Canadian content development (CCD) contributions, for the 2007-2008 to 2009-2010 broadcast years.
4. In that same notice, the Commission directed the licensee to attend a public hearing to show cause why a mandatory order requiring it to comply with the above-mentioned sections of the Regulations should not be issued.

5. The Commission received a comment from the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) concerning the present application. The public record for this proceeding can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

### **ADISQ's intervention**

6. In its intervention, ADISQ noted that the licensee's public file contains only partial information that would allow parties to evaluate the licensee's compliance with the requirements of the Commission's policy on CCD contributions. ADISQ also expressed concern over the fact that only one compliance evaluation was done during CIPC-FM's licence term. ADISQ requested that the Commission impose a condition of licence setting out a minimum requirement for content by emerging artists, stating that the licensee's proposal to devote only 14% of its musical selections to emerging artists during its next licence term is clearly insufficient. ADISQ suggested that the Commission should again grant CIPC-FM a short-term licence renewal.
7. The Commission notes ADISQ's comments with respect to imposing a condition of licence requiring the licensee to broadcast a minimum level of musical selections by emerging artists. However, the Commission has already addressed this issue in Broadcasting Regulatory Policy 2011-316. In that policy, the Commission noted that stations with formats that depend very heavily on the familiarity of music to listeners and that air the least emerging music devote one selection in six, seven or eight to a Canadian emerging artist. The Commission considers that Canadian radio stations already air a reasonable amount of this music and that a regulated minimum or a condition of licence in this respect is not necessary.

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

8. After examining the application and the intervention in light of applicable regulations and policies, the Commission considers that the issues to be addressed in its determinations relate to the following:
  - the broadcast of French-language vocal music;
  - the provision of a complete machine readable record of the matter broadcast; and
  - contributions to CCD.

### **Broadcast of French-language vocal music**

9. Pursuant to section 2.2(10) of the Regulations, licensees operating French-language radio stations are required to devote 55% of vocal musical selections from content category 2 (Popular Music) to FLV music between 6 a.m. and 6 p.m. from Monday to Friday. The Commission notes that the licensee aired 53.5% FLV music between 6 a.m. and 6 p.m. from Monday to Friday during the week of 14-20 February 2010.

10. In a letter dated 11 June 2010, the licensee explained that this non-compliance was the result of an error in the management and handling of the broadcasting software. At the 17 May public hearing, the licensee added that, to achieve the required regulatory level, it had raised its FLV music target to 1.5% over the levels required under sections 2.2(5) and 2.2(10), thereby ensuring that it is able to comply with the Regulations.
11. The Commission notes the licensee's explanations and is satisfied with the measures it has put in place to comply with its FLV music requirements.

#### **Provision of a complete machine readable record of the matter broadcast**

12. Pursuant to sections 8(5) and 8(6) of the Regulations, licensees are required to retain a clear and intelligible tape recording or other exact copy of all matter broadcast for a certain length of time and to provide it to the Commission when it so requests. The Commission notes that the exact copy of the broadcast provided by the licensee for the week of 14-20 February 2010 was missing 13 hours of programming, in contravention of the Regulations.
13. In a letter dated 11 June 2010, the licensee explained that it decided to purchase a new system with new software to prevent a recurrence of this technical problem. Additionally, at the hearing, the licensee stated that it had remedied the situation by acquiring a back-up computer system to take over in the event that the main system fails. The licensee also indicated that the exact copies of the licensee's broadcast are now checked daily.
14. Access to machine readable records or other exact copies of all matter broadcast is extremely important since it allows the Commission to monitor if the programming broadcast by a station complies with its conditions of licence and the Regulations. Providing complete and accurate machine readable records of the matter broadcast is a basic responsibility of a licensee. However, the Commission is satisfied with the measures put in place by the licensee to comply with the requirement to retain complete machine readable records of the matter broadcast.

#### **Canadian content development contributions**

15. Pursuant to the transitional condition of licence imposed in Broadcasting Decision 2007-395 and section 15 of the Regulations, the licensee must devote 60% of its basic annual CCD contribution to FACTOR or MUSICACTION. The Commission notes that the licensee did not direct any contribution to MUSICACTION for the 2007-2008 broadcast year, as required by its transitional condition of licence, or for the 2008-2009 and 2009-2010 broadcast years, as required by the Regulations.
16. In a letter dated 11 March 2011, the licensee explained that it was not aware of the exact date that section 15 of the Regulations took effect, which resulted in the non-compliance. The licensee further explained at the hearing that it understood its obligations under the Regulations and had registered with MUSICACTION to be included on its billing list to ensure that it receives an annual invoice, thus preventing any further non-compliance. The licensee stated that it also intended to pay the

contribution to MUSICACTION two months before the end of the broadcast year to avoid a recurrence of this situation.

17. The Commission also received evidence that the final outstanding amount for the current licence term was paid on 19 May 2011, the day after the licensee appeared at the hearing. In light of the above, the Commission is satisfied with the measures put in place by the licensee to comply with its CCD contribution requirements.

## **Conclusion**

18. 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.
19. 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.
20. In the present case, the Commission is satisfied with the licensee's explanations regarding the circumstances of the non-compliances and with the measures it has put in place to comply with its obligations relating to FLV music, the provision of complete machine readable records of the matter broadcast and CCD contributions. Accordingly, the Commission does not consider it necessary to issue mandatory orders pursuant to sections 2.2(10), 8(5), 8(6) and 15 of the Regulations.
21. In accordance 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 for CIPC-FM would be appropriate. Accordingly, the Commission **renews** the broadcasting licence for the French-language commercial radio programming undertaking CIPC-FM Port-Cartier from 1 September 2011 to 31 August 2014. This short-term renewal will allow for an earlier review of the licensee's compliance with its conditions of licence relating to the broadcast of FLV music, the provision of machine readable records of the matter broadcast and its Canadian content development contributions. The licence will be subject to the **conditions of licence** set out in Broadcasting Regulatory Policy 2009-62.

## **Encouragement**

### **Employment Equity**

22. In accordance with Public Notice 1992-59, 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.

Secretary General

## Related documents

- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Definition of emerging Canadian artists on commercial radio*, Broadcasting Regulatory Policy CRTC 2011-316, 12 May 2011
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2011-188, 16 March 2011
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *CIPC-FM Port-Cartier – Licence renewal*, Broadcasting Decision CRTC 2007-395, 30 October 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

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