



Broadcasting Decision CRTC 2020-307

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Reference: 2020-75, 2020-75-1, 2020-75-2 and 2020-75-3

Ottawa, 27 August 2020

La radio communautaire du comté Rimouski and Mont-Joli, Quebec

*Public record for this application: 2019-0650-5
Virtual public hearing in the National Capital Region
16 June 2020*

CKMN-FM Rimouski/Mont-Joli – Licence renewal

*The Commission **renews** the broadcasting licence for the French-language community radio station CKMN-FM Rimouski/Mont-Joli, Quebec from 1 September 2020 to 31 August 2023. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements.*

Application

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-194, which listed radio stations for which broadcasting licences expire 31 August 2020 and needed to be renewed to continue their operations. In that notice, the Commission requested that the licensees of these stations submit renewal applications for their broadcasting licences.
3. In response to this notice, La radio communautaire du comté (La Radio) filed an application to renew the broadcasting licence for the French-language community radio station CKMN-FM Rimouski/Mont-Joli, Quebec, which expires 31 August 2020. The Commission received several interventions supporting this application.

Background

4. In Broadcasting Decision 2005-263, the Commission found the licensee in non-compliance with sections 8(5) and 8(6) of the *Radio Regulations, 1986* (the Regulations) relating to the keeping of clear and intelligible audio recordings and the requirement to file them at the request of the Commission. It also found the

licensee in non-compliance with section 9(3)(b) of the Regulations relating to music lists. Accordingly, the Commission renewed CKMN-FM's broadcasting licence for a short term of four years.

5. In Broadcasting Decision 2011-544,¹ published following an oral hearing, the Commission found the licensee in non-compliance with section 9(2) of the Regulations relating to the filing of complete annual returns. Accordingly, the Commission once again renewed CKMN-FM's broadcasting licence for a short term of four years and issued a broadcasting mandatory order (Broadcasting Order 2011-545) requiring the licensee to comply to section 9(2) of the Regulations.
6. Further, in Broadcasting Decision 2015-346, the Commission once again found the licensee in non-compliance with section 9(2) of the Regulations relating to the filing of complete annual returns. It also found the licensee in non-compliance with Broadcasting Order 2011-545 issued during the previous renewal. Accordingly, the Commission renewed CKMN-FM's broadcasting licence for a short term of three years and reissued the broadcasting mandatory order requiring the licensee to comply with section 9(2) of the Regulations.
7. More recently, in Broadcasting Decision 2018-468, published following an oral hearing, the Commission found the licensee in non-compliance with section 9(2) of the Regulations relating to the filing of complete annual returns. It also found the licensee in non-compliance with sections 8(1), 8(2), 8(5), 8(6) and 9(3)(b) of the Regulations, relating to complete and accurate radio monitoring materials, and with section 9(4) relating to the requirement to respond to any Commission request for information. Accordingly, the Commission renewed CKMN-FM's broadcasting licence for a short term of two years (from 1 January 2019 to 31 August 2020)² and issued broadcasting mandatory orders requiring the licensee to comply at all times with sections 8(1), 8(2), 8(5), 8(6), 9(2) and 9(3)(b) of the Regulations.

Non-compliance

8. In Broadcasting Notice of Consultation 2020-75, the Commission stated that the licensee was in apparent non-compliance with the following:
 - section 9(3)(a) of the Regulations relating to the requirement to provide a complete and accurate self-assessment report, for the 10 to 16 February 2019 broadcast week; and
 - condition of licence 5 set out in the appendix to Broadcasting Regulatory Policy 2012-304 requiring the licensee to devote no less than 5% of its

¹ In Broadcasting Decision 2009-334, the Commission administratively renewed the broadcasting licence for CKMN-FM from 1 September 2009 to 31 August 2011.

² In Broadcasting Decision 2018-244, the Commission administratively renewed the broadcasting licence for CKMN-FM from 1 September 2018 to 31 December 2018.

musical selections to selections drawn from content category 3 (Special Interest Music).

9. In the notice of consultation, the Commission called the licensee to the 16 June 2020 virtual public hearing to discuss these instances of apparent severe non-compliance. The Commission indicated that, should it find the licensee in non-compliance during the current licence term, this would be the fifth consecutive licence term in which CKMN-FM would be found in non-compliance with regulatory requirements.
10. In light of the Commission's warning in Broadcasting Decision 2018-468 regarding the measures the Commission could take at the next licence renewal, the Commission reiterated that it could consider the possibility of suspending, not renewing or revoking the broadcasting licence for CKMN-FM pursuant to sections 9 and 24 of the Act.

Radio monitoring materials

11. Section 10(1)(i) of the Act states that the Commission may, in furtherance of its objects, require licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.
12. In accordance with this authority, the Commission made section 9(3)(a) of the Regulations, which relates to the obligation to provide, at the request of the Commission, a complete and accurate self-assessment report for a specific broadcast week.
13. On 19 February 2019, Commission staff sent a letter to the licensee asking it to file, no later than 12 March 2019, the audio recordings and related documents for the programming broadcast in the week of 10 to 16 February 2019.
14. The licensee provided the documents requested within the specified deadline. However, the self-assessment report filed was neither complete nor accurate. The number of musical selections indicated in the station's self-assessment report differed from that in the list of musical selections.
15. On 12 February 2020, in answer to a request for information from the Commission, the licensee indicated that the WinMedia music management system was unable to provide all the information requested by the Commission in a performance evaluation. The licensee added that the preparation of a performance evaluation required much effort and that the content categories and codes were adjusted manually. This work is usually carried out by a single person, which causes stress and leads to errors.
16. The licensee proposed to divide the work for the next performance evaluation between two people. It added that many calculations would be revised to ensure that the music log exactly matches the self-assessment report. During the public hearing, when accompanied by the general manager of the Association des radiodiffuseurs

communautaires du Québec, the licensee also talked about these measures and indicated that it was also currently working on a full update of the WinMedia software.

17. In light of the above, the Commission finds the licensee in non-compliance with section 9(3)(a) of the Regulations.

Content category 3 musical selections

18. Pursuant to section 9(1) of the Act and in accordance with the many provisions of section 3(1) of the Act related to the reflection of Canadians and the obligation to contribute to the creation and presentation of Canadian programs, the Commission imposed on the licensee requirements regarding the broadcast of Canadian programs.
19. The programming of community stations should distinguish itself from that of the commercial and public sectors in both style and substance to meet the needs and interests of the communities served and reflect their diversity. Therefore, standard condition of licence 5 applicable to campus and community radio stations set out in appendix to Broadcasting Regulatory Policy 2012-304 states that :
 5. In each broadcast week, the licensee shall devote no less than 5% of its musical selections to selections drawn from content category 3 (Special Interest Music), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.
20. Under this condition, a licensee must devote at least 5% of the musical selections broadcast to those drawn from content category 3 and not according to the duration of musical selections. This provides minimum diversity in the markets served by community stations.
21. According to the results of the programming monitoring evaluation of CKMN-FM, the percentage of content category 3 musical selections broadcast in the week of 10 to 16 February was 4% of the total selections identified in the music list.
22. In a letter dated 22 January 2020, the Commission asked the licensee to explain the reasons for this apparent non-compliance. In its answer dated 12 February 2020, the licensee indicated that most content category 3 musical selections played are jazz, the duration of which is much longer than that of musical selections of standard duration.
23. The licensee explained that to reach the 5% threshold, it had to air 80 songs from content category 3 for the requested broadcast week. On Monday, 11 February 2019, the licensee indicated that it aired 13 musical selections of a duration of more than 5 minutes each (total of 82 minutes), which it claimed corresponds to 25 musical selections of a standard duration of 3 minutes and 30 seconds. According

to the licensee, this would bring the total number of musical selections of content category 3 from 66 to 79 songs, and this would bring it close to compliance at 4.9%.

24. To mitigate this issue, the licensee added, in May 2019, an additional hour of music in content category 3, and in September 2019, in addition to the hour added in May, the licensee broadcast a weekly program of a duration of two hours of content category 3 music. During the hearing, the licensee also indicated that it had added an additional hour of content category 3 music in order to broadcast folk music.
25. In light of the above, the Commission finds the licensee in non-compliance with standard condition of licence 5 set out in the appendix to Broadcasting Regulatory Policy 2012-304.

Regulatory measures

26. The Commission's approach to non-compliance by radio stations is set out in Broadcasting Information Bulletin 2014-608. Under this approach, each instance of non-compliance is evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The circumstances leading to the non-compliance, the arguments provided by the licensee and the steps taken to rectify the situation are also considered.
27. The Commission examined the record of this application and considers that the measures proposed by the licensee are sufficient to ensure the licensee's future compliance. In addition, the instances of non-compliance raised in this decision have not been identified by the Commission as being an issue for CKMN-FM in the previous licence terms. Therefore, the previous non-compliance are now resolved. The licensee also showed a willingness to comply with the applicable broadcasting regulations. However, it is the fifth consecutive licence term during which the licensee has been found in non-compliance with the regulatory requirements.
28. In light of the severity of the different instances of non-compliance and of the recurrence of the licensee's non-compliance with the regulatory requirements, the Commission considers it appropriate to renew the broadcasting licence for CKMN-FM for a short term of three years, which will allow for an earlier review of the licensee's compliance with the regulatory requirements.

Conclusion

29. In light of all of the above, the Commission **renews** the broadcasting licence for the French-language community radio programming undertaking CKMN-FM Rimouski/Mont-Joli, Quebec from 1 September 2020 to 31 August 2023. The licensee shall adhere to the **conditions** set out in Broadcasting Regulatory Policy 2012-304 as well as to the **conditions** set out in the broadcasting licence for the undertaking.

Reminders

30. Adherence to the requirements relating to the filing of complete and accurate program logs is fundamental to the Commission's ability to monitor a station's performance and verify its compliance with the Regulations and its conditions of licence. This requirement applies to all stations, community and commercial, regardless of the size of the market. Further, the submission of material containing inconsistencies affects the Commission's ability to independently confirm a licensee's adherence to its regulatory obligations. These filings are also important indicators as to whether the licensee has the willingness, ability and knowledge necessary to bring itself into compliance and maintain such compliance.
31. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory requirements. It is the licensee's responsibility to be aware of the regulatory requirements and to adhere to them at all times. The short-term licence renewal granted in this decision will allow for an earlier review of the licensee's compliance with the Regulations.
32. Should the licensee once again breach the regulatory requirements, the Commission will consider the suspension, non-renewal or revocation of the broadcasting licences under sections 9 and 24 of the Act.
33. Pursuant to section 22 of the Act, the broadcasting licence renewed in this decision will cease to have any force of effect if the broadcasting certificate issued by the Department of Industry lapse.

Filing of ownership information

34. As set out in Broadcasting Regulatory Policy 2010-499, the Commission expects all community and campus radio station licensees to file yearly updates on the composition of their boards of directors. These annual updates can be submitted at the time of submission of annual returns, following annual board of directors elections, or at any other time. As noted in Appendix 3 to that regulatory policy, licensees may submit such documentation via the Commission's website.

Employment equity

35. The Commission considers that community radio stations should be particularly sensitive to employment equity issues in order to reflect fully the communities they serve. The Commission encourages the licensee to consider these issues in its hiring practices and in all other aspects of its management of human resources.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2020-75, 26 February 2020

- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-194, 3 June 2019
- *CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-468 and Broadcasting Orders CRTC 2018-469, 2018-470, 2018-471, 2018-472, 2018-473 and 2018-474, 14 December 2018
- *Administrative renewals*, Broadcasting Decision CRTC 2018-244, 16 July 2018
- *CKMN-FM Rimouski/Mont-Joli - Licence renewal and reimposition of a broadcasting order*, Broadcasting Decision CRTC 2015-346 and Broadcasting Order CRTC 2015-347, 29 July 2015
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Standard conditions of licence for campus and community radio stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012
- *CKMN-FM Rimouski and Mont-Joli – Licence renewal and issuance of a mandatory order*, Broadcasting Decision CRTC 2011-544 and Broadcasting Order CRTC 2011-545, 31 August 2011
- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010
- *Administrative renewals*, Broadcasting Decision CRTC 2009-334, 9 June 2009
- *CKMN-FM Rimouski and Mont-Joli - Licence renewal*, Broadcasting Decision CRTC 2005-263, 28 June 2005