



Broadcasting Decision CRTC 2007-159

Ottawa, 31 May 2007

Radio Express inc.
Salaberry-de-Valleyfield, Quebec

Application 2007-0433-9, received 16 March 2007
Public Hearing in the National Capital Region
30 April 2007

CKOD-FM Salaberry-de-Valleyfield – Licence renewal and issuance of a mandatory order

*The Commission **renews** the broadcasting licence for the French-language commercial radio programming undertaking CKOD-FM Salaberry-de-Valleyfield, from 1 June 2007 to 31 August 2009. In addition, the Commission issues Broadcasting Mandatory Order CRTC 2007-7, which is appended to this decision.*

Introduction

1. The Commission received an application by Radio Express inc. (Radio Express) to renew the broadcasting licence for the French-language commercial radio programming undertaking CKOD-FM Salaberry-de-Valleyfield. The current licence expires 31 May 2007.
2. In Broadcasting Decision 2006-353, the Commission granted Radio Express a short term renewal of nine months and issued four mandatory orders pursuant to section 12(2) of the *Broadcasting Act* (the Act). These mandatory orders required the licensee to comply at all times during the new licence term with the condition of licence pertaining to financial contributions to Canadian talent development and with sections 2.2(5), 8(6) and 9(2) of the *Radio Regulations, 1986* (the Regulations), which pertain, respectively, to the broadcasting of French-language vocal music, the submission of logger tapes and the submission of annual reports.
3. On 21 March 2007, in Broadcasting Notice of Public Hearing 2007-3-2, the Commission announced the receipt of the application and noted the licensee's apparent non-compliance with the provisions of the Regulations concerning the submission of annual reports. The Commission stated that it expected the licensee to show cause at the hearing why a new mandatory order should not be issued and stated its intent to discuss with the licensee all other measures taken, as well as those that could be taken, including the imposition of conditions of licence, to address the concerns raised by this situation.

Commission's analysis and determinations

4. The Commission notes the intervention filed by the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), which pointed out the licensee's "deplorable failure" to meet its regulatory obligations despite the serious warning sent by the Commission in the form of a short-term nine-month renewal and several mandatory orders. ADISQ therefore asked the Commission to require the licensee to demonstrate at the public hearing its compliance with the Commission's requirements relating to Canadian content, French-language vocal music and Canadian content development (CCD).
5. The Commission further notes that the licensee stated under oath at the public hearing that the station's annual reports for the fiscal year ending 31 August 2006 had been filed only five days after the deadline set out in the Regulations. However, according to the Commission's records, the reports in question were filed on 20 December 2006, and not on 30 November 2006, which constitutes a breach of section 9(2) of the Regulations.
6. The Commission notes that although Radio Express, following the March 2006 public hearing, created a management committee mandated to help it meet its deadlines, the licensee failed to file its annual reports on time. The Commission also notes that this management committee was dissolved at the end of March 2007. Nevertheless, the Commission expects the licensee to put in place or maintain the measures required so as to ensure that it complies at all times with its regulatory obligations and with the terms and conditions of its licence.

Conclusion

7. Although the licensee has improved its performance in meeting its regulatory obligations, the Commission is still concerned that the licensee appears to place little importance on this issue. Accordingly, the Commission **renews** the broadcasting licence for the French-language commercial radio programming undertaking CKOD-FM Salaberry-de-Valleyfield for a short term of two years, from 1 June 2007 to 31 August 2009. The licence will be subject to the **conditions** set out in Public Notice 1999-137, as well as to the **conditions** set out in Appendix I to this decision.
8. Furthermore, in light of the licensee's repeated infractions, the Commission also considers it appropriate to issue a new mandatory order pursuant to section 12(2) of the Act. The licensee shall therefore comply at all times throughout the new licence term with the provisions of section 9(2) of the Regulations concerning the submission of annual reports. Pursuant to section 13 of the Act, Broadcasting Mandatory Order CRTC 2007-7, which is set out in Appendix II to this decision, will be filed immediately with the Federal Court such that it become an order of the Federal Court. Failure to comply with a Federal Court order may result in contempt of court charges.

9. Finally, the Commission notes that it may consider additional measures, including suspension, non-renewal or revocation of the licence, should Radio Express inc. once again breach the Regulations or any of the conditions of its licence.

Change resulting from the new *Commercial Radio Policy, 2006*

10. In Broadcasting Public Notice 2006-158, the Commission set out a new approach to the development and promotion of Canadian artists. In order to reflect a new emphasis on development initiatives that lead to the creation of audio content for broadcast using Canadian resources, the Commission is replacing the expression “Canadian talent development” (CTD) with “Canadian content development” (CCD). Under the new policy, each radio station holding a commercial radio licence will be required to make a basic annual CCD contribution based on its total broadcast revenues in the previous broadcast year. This requirement will be reflected in the *Radio Regulations, 1986*. In the meantime, it will be implemented via a transitional condition of licence that will expire upon the coming into force of the amendments to the Regulations.

Secretary General

Related documents

- Broadcasting Notice of Public Hearing CRTC 2007-3-2, 21 March 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CKOD-FM Salaberry-de-Valleyfield – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2006-353, 10 August 2006
- *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999

This decision is to be appended to the licence. It is available in alternative format upon request and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

Appendix I to Broadcasting Decision CRTC 2007-159

Conditions of licence and encouragement for the radio programming undertaking CKOD-FM Salaberry-de-Valleyfield

Conditions of licence

1. The licence will subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition number 5.
2. The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986*, in any broadcast week:
 - a) devote 55% or more of its musical selections in that broadcast week from content category 2 (Popular music) to Canadian selections broadcast in their entirety; and
 - b) devote, between 6 a.m. and 6 p.m., in the period from Monday to Friday of the same broadcast week, 55% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian musical selection,” “content category” and “musical selection” shall have the meaning set out in the *Radio Regulations, 1986*.

3. The licensee shall make a basic annual Canadian content development (CCD) contribution. The amount of the contribution shall be determined in accordance with the policy set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (Public Notice 2006-158), as amended from time to time. This contribution shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives in Public Notice 2006-158.

The licensee shall allocate 60% of this basic annual CCD contribution to the Foundation Assisting Canadian Talent on Recordings (FACTOR) or to MUSICACTION.

This condition of licence shall expire upon the coming into force of amendments to the *Radio Regulations, 1986* relating to CCD.

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.

Appendix II to Broadcasting Decision CRTC 2007-159

Broadcasting Mandatory Order CRTC 2007-7

Radio Express inc., licensee of CKOD-FM Salaberry-de-Valleyfield, is hereby ordered, pursuant to section 12(2) of the *Broadcasting Act*, to comply at all times within the term of the licence granted in *CKOD-FM Salaberry-de-Valleyfield – Licence renewal and issuance of a mandatory order*, Broadcasting Decision CRTC 2007-159, 31 May 2007, with the requirement contained in section 9(2) of the *Radio Regulations, 1986*, which reads as follows:

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.