



## Broadcasting Decision CRTC 2023-248

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References: Part 1 licence renewal application posted on 27 October 2022; Part 1 application posted on 27 October 2022

Ottawa, 10 August 2023

**Rogers Media Inc.**  
Kitchener, Ontario

*Public record: 2022-0779-5 and 2022-0792-7*

### CIKZ-FM Kitchener – Licence renewal and licence amendment

#### Summary

The Commission **renews** the broadcasting licence for the English-language commercial radio station CIKZ-FM Kitchener, Ontario, from 1 September 2023 to 31 August 2030.

In addition, the Commission **denies** the licensee's request to delete its condition of service requiring it to devote at least 40% of its musical selections from content category 2 (Popular Music) during the broadcast week and between 6:00 a.m. and 6:00 p.m. from Monday to Friday to Canadian selections.

#### Licence renewal

1. The Commission has the authority, pursuant to subsections 9(1) and 9.1(1) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*.
2. On 10 June 2022, the Commission issued Broadcasting Notice of Consultation 2022-152,<sup>1</sup> which listed radio stations for which the broadcasting licences would expire 31 August 2023 and therefore needed to be renewed to continue their operations. In that notice of consultation, the Commission requested that the licensees of those stations submit renewal applications for their broadcasting licences.
3. In response, Rogers Media Inc. (Rogers) filed an application (2022-0779-5) to renew the broadcasting licence for the English-language commercial radio station CIKZ-FM Kitchener, Ontario, which expires 31 August 2023. The Commission received a procedural request and an intervention commenting on the licence renewal application from the Forum for Research and Policy in Communications (FRPC) to

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<sup>1</sup> As corrected in Broadcasting Notice of Consultation 2022-152-1.

which the licensee replied. The intervention related to Rogers' response to the procedural request.

4. Consistent with the authority set out in subsection 3(1) of the *Broadcasting Act*, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CIKZ-FM Kitchener, Ontario, from 1 September 2023 until 31 August 2030.
5. Pursuant to subsection 49(1) of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act*. As such, the conditions of licence for this licensee became conditions of service and continue to apply to the licensee. For ease of reference, the **conditions of service** for this licensee are set out in the appendix to this decision. Further, the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking relating to, for example, technical parameters or prohibitions on transfer. The licensee shall also adhere to any such requirements set out in the broadcasting licence for the undertaking.

### **Licence amendment**

6. Rogers filed a second application (2022-0792-7) to amend the broadcasting licence for CIKZ-FM. The licensee proposed to delete the following condition of service set out in Broadcasting Decision 2016-280:

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 devote, in that broadcast week, a minimum of 40% of its musical selections from content category 2 to Canadian selections broadcast in their entirety, and devote a minimum of 40% of its musical selections from content category 2 to Canadian selections broadcast in their entirety between 6 a.m. and 6 p.m. Monday to Friday.

7. The Commission received an intervention in support of the licence amendment application.
8. Rogers stated that it is subject to a threshold that is higher than the regulatory minimum as a result of a condition of service that was imposed as part of the approval of an application by Larche Communications Inc. to establish a new radio station in Kitchener-Waterloo, set out in Broadcasting Decision 2003-153.
9. In Broadcasting Decision 2007-434, the Commission approved Rogers' acquisition of CIKZ-FM. Rogers agreed to continue the operation of the undertaking under the same terms and conditions as those in effect at the time.
10. Rogers submitted that it has been in compliance with the 40% level of Canadian musical selections but is competing in a changing cultural ecosystem in which online platforms do not have to adhere to any regulatory requirements. This makes it

difficult to compete for listeners and advertising dollars with online platforms such as Spotify and Apple Music.

11. Rogers argued that its radio stations have recorded significant losses in both local and national advertising sales over the last few years. Rogers stated that total revenues across all of its stations declined by 44% between broadcast years 2018-2019 and 2020-2021. Rogers also stated that the COVID-19 pandemic has negatively impacted the Canadian radio industry as a whole with reported declines in English-language commercial radio of 29.6% from the 2019 to the 2021 broadcast year. During this same time frame, local sales declined by 45% and national time sales declined by 44%.
12. In addition, Rogers stated that it does not know how it will be affected by changes to the *Broadcasting Act* or by any policies and regulations that will be implemented by the Commission over the next few years. It argued that the greater 40% Canadian musical selection threshold creates an undue burden on CIKZ-FM for no other reason apart from implementing a condition of service that was imposed back in 2003 when the licensing application was first approved. The applicant stated that having a minimum 35% requirement for Canadian musical selections for the next licence term would provide the flexibility to adjust to changes that are out of its control, while maintaining the baseline that was established by the Commission for all commercial radio stations in the Regulations.
13. In general, the Commission expects licensees of radio stations that were granted licences through a competitive process to maintain their original conditions of service for at least the first licence term and to be in compliance with the conditions of service they are seeking to amend or delete. In this case, the station has been in operation for multiple licence terms and is also in compliance with the condition of service it is seeking to have removed.
14. The Commission also generally expects licensees to demonstrate economic need for this type of licence amendment. In its application, Rogers did not cite an economic need demonstrating how a reduction from a minimum of 40% to a minimum 35% of Canadian musical selections broadcast would improve the financial situation of CIKZ-FM. Furthermore, Rogers stated that the proposed amendment would not result in a change to existing financial projections and that it is not necessary for the financial viability of CIKZ-FM.
15. Radio stations play an important role in showcasing the work of Canadian artists. By doing so, they contribute to the fulfilment of the objective set out in subparagraph 3(1)(d)(ii) of the *Broadcasting Act*, which provides that the Canadian broadcasting system should encourage the development of Canadian expression by displaying Canadian talent in entertainment programming.
16. The Commission has not generally been disposed to approve reductions in levels of Canadian musical selections, including in cases where the requirements are above the minimum regulatory requirements, except in exceptional circumstances.

17. In regard to CIKZ-FM, the higher commitment for Canadian musical selections was made by the previous owner in the context of a competitive licensing process and was an important factor in the Commission's decision to grant the broadcasting licence to the station. When Rogers acquired CIKZ-FM in 2010, it agreed to continue operating under the same terms and conditions. The Commission considers that the commitments made at the time of the original licensing and reaffirmed when the station was acquired by Rogers remain relevant and would serve to maintain programming diversity in the Kitchener market.
18. Accordingly, the Commission finds that the circumstances do not warrant deviating from the Commission's general approach to uphold the 40% commitment to levels of Canadian musical selections.
19. Consequently, the Commission **denies** the licensee's request to delete its condition of service requiring it to devote at least 40% of its musical selections from content category 2 (Popular Music) during the broadcast week and between 6:00 a.m. and 6:00 p.m. from Monday to Friday to Canadian selections.

### **Procedural request**

20. On 22 November 2022, the FRPC filed a procedural request in which it requested a copy of the record on employment equity that is mentioned at question three of the renewal application form, which reads as follows:

The licensee is subject to the *Employment Equity Act* (applicable to federally regulated employers with 100 or more employees). The licensee keeps a record of the total number and percentage of on-air employees (full-time, part-time and temporary), including voice-overs, from each designated group, as well as the total number of all on-air employees who were employed in the last year. A copy of this record is available upon request.

21. On 16 January 2023, Rogers filed a response to the procedural request in which it provided a link to the Department of Employment and Social Development's (also known as Employment and Social Development Canada [ESDC]) web page where these reports would normally be found. Rogers indicated that the reports filed with ESDC do not require or contain the specific breakdown of on-air employees described at question three of the renewal application form.
22. The Commission does not examine employment equity practices of licensees with 100 employees or more since these licensees are subject to the *Employment Equity Act*, which falls under the jurisdiction of ESDC.
23. However, the Commission considers that Rogers could have been more forthcoming by providing the reports it has available. Accordingly, the Commission encourages the licensee to provide information when requested.

## Reminders

### Local news

24. Radio stations are an important daily source of local news and information for communities. Carrying on a broadcasting undertaking comes with conditions, regulatory obligations and responsibilities, which include contributing to the Canadian broadcasting system by ensuring that Canadians have access to local programming that reflects their needs and interests and informs them of important current issues.
25. Although Broadcasting Regulatory Policy 2022-332 does not specify a minimum level of weekly news to be broadcast, it does specify the type of spoken word material that must be included as part of a station's local programming. In accordance with that regulatory policy, the Commission reminds the licensee that its station, in its local programming, must incorporate spoken word material of direct and particular relevance to the communities served, and that this programming must include local news, weather, sports coverage, and the promotion of local events and activities. In addition, the Commission encourages the licensee to ensure that a reasonable amount of daily local news and information is made available to those communities.

### Force and effect of broadcasting licences

26. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect should the broadcasting certificate issued by the Department of Industry (also known as Innovation, Science and Economic Development Canada) lapse.

### Practical guide for radio licence renewals

27. To learn more about the Commission's review of compliance with requirements relating to radio licences, and about the radio renewal process, please consult the Commission's [Practical guide to radio licence renewals](#).

Secretary General

### Related documents

- *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022
- *Call for licence renewal applications – Submission of renewal applications for broadcasting licences of radio stations expiring on 31 August 2023 – Regular renewal process*, Broadcasting Notice of Consultation CRTC 2022-152, 10 June 2022, as corrected by Broadcasting Notice of Consultation CRTC 2022-152-1, 18 August 2022

- *Various commercial radio stations - Licence renewals*, Broadcasting Decision CRTC 2016-280, 21 July 2016
- *Exchange of radio assets*, Broadcasting Decision CRTC 2007-434, 24 December 2007
- *Country FM radio station in Kitchener-Waterloo*, Broadcasting Decision CRTC 2003-153, 14 May 2003

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

## Appendix to Broadcasting Decision CRTC 2023-248

### Terms, conditions of service, expectations and for the English-language commercial radio programming undertaking CIKZ-FM Kitchener, Ontario

#### Terms

The licence will expire 31 August 2030.

#### Conditions of service

1. The licensee shall adhere to the conditions of service set out in *Revised conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2022-334, 7 December 2022. Further, the licensee shall adhere to the requirements set out in the broadcasting licence for the undertaking.
2. The licensee shall adhere to all applicable requirements set out in the *Radio Regulations, 1986*, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.<sup>2</sup>
3. As an exception to subsections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations) and subject to subsection 2.2(6) of the Regulations, the licensee shall devote at least 40% of its musical selections from content category 2 (Popular Music) during the broadcast week and between 6:00 a.m. and 6:00 p.m. from Monday to Friday to Canadian selections.

For the purpose of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as those set out in the Regulations.

#### Expectations

##### Cultural diversity

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

##### Canadian emerging artists

Consistent with the Commission’s determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to

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<sup>2</sup> Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

devote, in each broadcast week, at least 5% of the station's musical selections to selections from Canadian emerging artists broadcast in their entirety. The licensee should report annually on how it has met this expectation, including the percentage of selections from Canadian emerging artists out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the definition of "Canadian emerging artist" is the same as that set out in paragraph 346 of Broadcasting Regulatory Policy 2022-332.

#### **Indigenous musical selections**

Consistent with the Commission's determination set out in *Revised Commercial Radio Policy*, Broadcasting Regulatory Policy CRTC 2022-332, 7 December 2022 (Broadcasting Regulatory Policy 2022-332), the Commission expects the licensee to include Indigenous musical selections on the station's playlist. The licensee should report annually on the amount of Indigenous content aired on the station throughout the broadcast year (i.e., from 1 September to 31 August), including the percentage of Indigenous musical selections out of the total number of musical selections that were aired, and the number of distinct artists whose music has been aired. The licensee should also be able to provide, upon request, information such as a list of all titles, artists, and International Standard Recording Code (ISRC) numbers.

For the purposes of the above paragraph, the licensee may use the provisional definition of "Indigenous-Canadian musical selection" set out in paragraph 441 of Broadcasting Regulatory Policy 2022-332 to determine whether a musical selection can be considered an Indigenous musical selection.