



## Broadcasting Decision CRTC 2023-250

PDF version

Reference: Part 1 licence renewal application posted on 17 January 2023

Ottawa, 11 August 2023

### **CKUA Radio Foundation**

Edmonton and other locations in Alberta

*Public record: 2022-0762-0*

## **CKUA-FM Edmonton and its transmitters – Licence renewal**

### **Summary**

The Commission **renews** the broadcasting licence for the English-language specialty commercial radio station CKUA-FM Edmonton, Alberta, and its transmitters from 1 September 2023 to 31 August 2028. 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 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, CKUA Radio Foundation (CKUA Radio) filed an application to renew the broadcasting licence for the English-language specialty commercial radio station CKUA-FM Edmonton, Alberta, and its 15 transmitters,<sup>2</sup> which expires

---

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

<sup>2</sup> CKUA-FM-1 Calgary, CKUA-FM-2 Lethbridge, CKUA-FM-3 Medicine Hat, CKUA-FM-4 Grande Prairie, CKUA-FM-5 Peace River, CKUA-FM-6 Red Deer, CKUA-FM-7 Hinton, CKUA-FM-8 Edson, CKUA-FM-9 Whitecourt, CKUA-FM-10 Athabasca, CKUA-FM-11 Fort McMurray, CKUA-FM-12 Spirit River, CKUA-FM-13 Drumheller, CKUA-FM-14 Banff, and CKUA-FM-15 Lloydminster, Alberta.

31 August 2023.<sup>3</sup> The Commission did not receive any interventions in regard to this application.

## **Non-compliance**

### **Annual returns**

4. Paragraph 10(1)(i) of the old *Broadcasting Act*, which was in effect while the licensee's application was being considered, granted the Commission authority, in furtherance of its objects, to make regulations requiring 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.
5. Pursuant to this authority, the Commission made subsection 9(2) of the *Radio Regulations, 1986* (the Regulations), which requires licensees to file an annual return, including financial statements, by no later than 30 November of a given year for the broadcast year ending the previous 31 August. The specific filing requirements, including the requirement to file financial statements, are set out in Broadcasting Information Bulletin 2011-795 and in Circular No. 404.
6. 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, stipulates that any regulation made pursuant to paragraph 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*. Accordingly, subsection 9(2) of the Regulations is considered to be a condition of service pursuant to subparagraph 9.1(1)(o) of the new *Broadcasting Act*, and licensees continue to be subject to this requirement.
7. According to Commission records, although the licensee's annual returns for the 2018-2019 broadcast year were filed on time, the required financial statements were only filed on 12 October 2022, well after the 30 November 2019 deadline.
8. CKUA Radio stated that the late filing of the financial statements was due to a misunderstanding. Under CKUA Radio's bylaws as a charitable not-for-profit, audited financial statements cannot be publicly available until after CKUA Radio's annual general meeting, which historically takes place in January or February. As such, the audited financial statements were not available when the annual report was submitted in November.
9. CKUA Radio further stated that it mistakenly deemed not necessary to file financial statements until they were approved rather than provide non-audited financial statements in November and re-file when the audited financial statements were available.

---

<sup>3</sup> The original licence expiry date for the station was 31 August 2021. The licence was administratively renewed until 31 August 2022 as a result of Broadcasting Decision 2020-381 and until 31 August 2023 as a result of Broadcasting Decision 2021-297.

10. The licensee indicated that the process has been corrected to ensure the provision of financial statements at the time of filing.
11. In light of the above, the Commission finds the licensee in non-compliance with subsection 9(2) of the Regulations for the 2018-2019 broadcast year.

### **Broadcast of Canadian musical selections**

12. Paragraph 10(1)(a) of the old *Broadcasting Act*, which was in effect while the licensee's application was being considered, granted the Commission the authority, in furtherance of its objects, to make regulations respecting the proportion of time that shall be devoted to the broadcasting of Canadian programs. Paragraph 3(1)(e) of the *Broadcasting Act* declares that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming. The old *Broadcasting Act* also provided that private networks and programming undertakings should, to an extent consistent with the financial resources available to them, contribute significantly to the creation and presentation of Canadian programming (subparagraph 3(1)(s)(i) of the old *Broadcasting Act*).
13. Pursuant to the authority granted by paragraph 10(1)(a) of the old *Broadcasting Act*, and consistent with the provisions set out in paragraph 3(1)(e) and former subparagraph 3(1)(s)(i), the Commission made subsections 2.2(8) and 2.2(9) of the Regulations, which require licensees of commercial radio stations to devote, in each broadcast week and between 6:00 a.m. and 6:00 p.m. in any period beginning on a Monday and ending on the Friday of that week, at least 35% of their musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.
14. Pursuant to subsection 49(2) of the *Online Streaming Act*, subsections 2.2(8) and 2.2(9) of the Regulations are considered to be conditions of service pursuant to paragraph 9.1(1)(a) of the new *Broadcasting Act*, and licensees continue to be subject to those requirements.
15. The Commission examined CKUA-FM's programming for the broadcast week of 3 November to 9 November 2019 and noted that the Canadian content level for content category 2 (Popular Music) musical selections broadcast during that week was 26.9%, which represents a shortfall of 8.1%. That evaluation further showed that the Canadian content level for content category 2 (Popular Music) musical selections broadcast for the period of Monday to Friday between 6:00 a.m. and 6:00 p.m. during the same broadcast week was 31.9%, which represents a shortfall of 3.1%.
16. CKUA Radio stated that the apparent non-compliance relating to its Canadian content requirements was due in part to the station's annual fundraising campaign. In this regard, the licensee noted that it generates 70% of its operating revenues from its listeners by way of donations, which is achieved through bi-annual on-air fundraising campaigns, one of which is held during the last week of October each year. A large percentage of donors also request a song to be played.

17. CKUA Radio further stated that these fundraising campaigns are exhausting on their regular hosts. As such, seven fill-in hosts were sitting in for regular staff during the monitored broadcast week. In an effort to fulfil donor requests, Canadian content requirements were not as front-of-mind for these fill-in hosts, which resulted in the above-noted shortfalls.
18. CKUA Radio indicated that it has reinforced Canadian content directives for all of its employees and revised its performance evaluations. It added that it has written a new broadcast standards guide with clear Canadian content and equity representation directives. It also conducted a self-audit to ensure that the requirement is met during regular operating circumstances.
19. In light of the above, the Commission finds the licensee in non-compliance with subsections 2.2(8) and 2.2(9) of the Regulations.

### **Implementation of a National Public Alerting System**

20. Subsection 10(1) of the *Broadcasting Act* authorizes the Commission, in furtherance of its objects, to make regulations regarding, among other things, the broadcasting of programs. In Broadcasting Regulatory Policy 2014-444, the Commission stated that the broadcasting system has a vital role to play in the provision of emergency alert messages to Canadians and that the duty to inform the public of imminent perils is at the core of the public service obligations of all broadcasters. The provision of emergency alert messages is achieved through the National Public Alerting System (NPAS).
21. Pursuant to the authority granted by subsection 10(1) of the *Broadcasting Act*, the Commission made section 16 of the Regulations. It specifies, among other things, that except as otherwise provided under a condition of its licence, a licensee of a commercial radio station shall implement, by no later than 31 March 2015, a public alerting system that broadcasts without delay any audio alert that it receives from the National Alert Aggregation and Dissemination (NAAD) System that
  - (a) announces an imminent or unfolding danger to life; and
  - (b) is designated by the applicable issuing authority for immediate broadcast in all or part of the area within the station's A.M. 5 mV/m contour, F.M. 0.5 mV/m contour or digital service area, as the case may be.
22. According to Commission records, the licensee did not implement the NPAS on all of its transmitters by the 31 March 2015 deadline.
23. The licensee indicated that the NPAS has been implemented for its originating station and its transmitters in Calgary, Lethbridge, Grande Prairie, Peace River, Red Deer, and Drumheller, which cover roughly 93% of Alberta's population. It further indicated that an encoder was to be installed for its transmitter in Medicine Hat by the end of the 2022 calendar year, and identified Fort McMurray as the next location for equipment installation, estimated for summer 2023.

24. The licensee noted that the remaining transmitter sites that have yet to implement the NPAS<sup>4</sup> are geographically located in remote, largely low-population areas that are rural or mountainous, and that it has been upgrading its transmitter sites as quickly as its resources allow.
25. In response to a Commission request for information dated 22 December 2022, CKUA Radio indicated that since the filing of the present application, it has received confirmation that the Alberta Ministry of Public Safety and Emergency Services will provide the required equipment as part of the upgrade from the Alberta Emergency Alerting System to the NAAD System, as set out in Broadcasting Information Bulletin 2022-232. It anticipated receiving the new ENDEC alert broadcast decoders in early 2023 and have them installed and operational by March 2023. The licensee noted that once this is complete, the NPAS will have been implemented on all 15 of CKUA-FM's rebroadcasting transmitters.
26. In light of the above, the Commission finds the licensee in non-compliance with subsection 16(2) of the Regulations.

### **Regulatory measures**

27. The Commission's approach to non-compliance by radio stations is set out in Broadcasting Information Bulletin 2014-608. Under that approach, each instance of non-compliance is evaluated in its context and in light of factors such as the number, recurrence and seriousness of the instances of non-compliance. The circumstances leading to the non-compliance, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
28. In regard to the licensee's non-compliance with subsection 9(2) of the Regulations relating to the filing of duly completed annual returns for the 2018-2019 broadcast year, the Commission considers that the licensee has put in place measures that should enable it to ensure the station's compliance in the future.
29. In regard to the licensee's non-compliance with subsections 2.2(8) and 2.2(9) of the Regulations relating to the broadcast of Canadian musical selections, the Commission notes that the shortfall occurred around the time of the station's annual fundraising campaign. Furthermore, the licensee realized that these requirements were not being prioritized and has since provided additional education to its employees and implemented additional measures to ensure compliance with the requirements.
30. In light of the exceptional nature of this instance and the additional measures implemented by the licensee, the Commission finds that the licensee has taken the necessary steps to bring itself back into compliance and that no further measures are warranted in regard to this non-compliance.

---

<sup>4</sup> In its reply to a Commission staff letter dated 13 October 2022, CKUA Radio stated that it has yet to implement the NPAS for CKUA-FM-3, CKUA-FM-7, CKUA-FM-8, CKUA-FM-9, CKUA-FM-10, CKUA-FM-11, CKUA-FM-12, CKUA-FM-14, and CKUA-FM-15.

31. Finally, in regard to the licensee's non-compliance with subsection 16(2) of the Regulations relating to the implementation of the NPAS, the Commission notes the licensee's explanation that it experienced financial and technical constraints that made implementing the NPAS on its remote transmitters difficult. However, more than seven years have elapsed since 31 March 2015, the deadline for implementing the NPAS, as required by the Regulations.
32. Consequently, the Commission finds that it would be appropriate to require the licensee to implement the NPAS on all of CKUA-FM's transmitters. Accordingly, and pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** CKUA Radio Foundation, as a **condition of service**, to install the NPAS by no later than **30 November 2023**.
33. Given that this renewal application was filed and processed prior to the coming into force of the new *Broadcasting Act*, and that interested parties had an opportunity to comment on the issue of compliance with NPAS as part of that process, the Commission considers the Part 1 proceeding to fulfill the publication and consultation requirement for purposes of subsection 9.1(4) of the new *Broadcasting Act* in this case.
34. Further, given the nature and number of the various instances of non-compliance, the Commission finds that it would be appropriate to renew the broadcasting licence for CKUA-FM for a short-term period, which will allow for an earlier review of the licensee's compliance with its regulatory requirements.

## **Conclusion**

35. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language commercial specialty radio programming undertaking CKUA-FM Edmonton, Alberta, and its transmitters from 1 September 2023 to 31 August 2028.
36. 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 considered to be 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.

## **Reminders**

37. The Commission reminds the licensee that it must comply at all times with the requirements set out in the *Broadcasting Act*, the Regulations, its licence, and its conditions of service.

## **Annual returns**

38. Licensees are responsible for filing complete annual returns on time, including financial statements. As set out in Broadcasting Information Bulletin 2011-795, it is the licensee's responsibility to ensure that all appropriate forms and documentation are included with its annual returns, and to contact the Commission if further clarification is required.

## **Canadian programming requirements**

39. A licensee's failure to comply with Canadian music programming requirements may cause harm to the broadcasting system as it deprives Canadian artists of royalties, but also deprives them of airplay, which in turn reduces their exposure to audiences. Further, Canadians are deprived of the opportunity to listen to Canadian music, which runs counter to the objectives of the *Broadcasting Act* with regard to safeguarding, enriching and strengthening the cultural fabric of Canada. It is therefore important for licensees to fulfill their obligations to broadcast specific levels of Canadian content.

## **National Public Alerting System**

40. The full participation of the broadcasting industry is important for ensuring that the NPAS is effective in safeguarding and warning Canadians. Accordingly, the Commission considers that compliance must be enforced. Stations that are in non-compliance with the requirements relating to the NPAS will be closely monitored to ensure that they come into compliance within the prescribed timeframe. The Commission could choose to apply other regulatory measures, such as those set out in Broadcasting Information Bulletin 2014-608, should the requirements relating to the NPAS not be fulfilled.

## **Local news**

41. 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.
42. 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**

43. 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**

44. 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
- *Distribution of emergency alert messages – Decommissioning of the Alberta Emergency Alerting System and transition to the National Alert Aggregation Dissemination System*, Broadcasting Information Bulletin CRTC 2022-232, 29 August 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 programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2021-297, 30 August 2021
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-381, 27 November 2020
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014
- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014



- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Requirements for the Filing of Financial Statements with the Broadcasting Annual Return*, Circular No. 404, 23 August 1994

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

## Appendix to Broadcasting Decision CRTC 2023-250

**Terms, conditions of service, expectations and encouragement for the English-language commercial specialty radio programming undertaking CKUA-FM Edmonton, Alberta, and its transmitters, CKUA-FM-1 Calgary, CKUA-FM-2 Lethbridge, CKUA-FM-3 Medicine Hat, CKUA-FM-4 Grande Prairie, CKUA-FM-5 Peace River, CKUA-FM-6 Red Deer, CKUA-FM-7 Hinton, CKUA-FM-8 Edson, CKUA-FM-9 Whitecourt, CKUA-FM-10 Athabasca, CKUA-FM-11 Fort McMurray, CKUA-FM-12 Spirit River, CKUA-FM-13 Drumheller, CKUA-FM-14 Banff, and CKUA-FM-15 Lloydminster, Alberta**

### Terms

The licence will expire 31 August 2028.

### Conditions of service

1. 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>5</sup>
3. The licensee shall operate the station within the Specialty format as defined in *A Review of Certain Matters Concerning Radio*, Public Notice CRTC 1995-60, 31 April 1995, and as amended by *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, and *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy 2022-333, 7 December 2022.
4. The licensee shall devote at least 12% of all musical selections drawn from content category 3 (Special Interest Music) to Canadian selections broadcast in their entirety.

For the purpose of this condition, the terms “Canadian selection,” “content category” and “musical selections” shall have the same meanings as those in the *Radio Regulations, 1986*.

5. The licensee is authorized to broadcast a weekly average of four minutes of restricted advertising for every hour of broadcast, with a maximum of six minutes of restricted advertising in any single hour, up to an overall total of 504 minutes of advertising per week. The restricted advertising broadcast must conform to the

---

<sup>5</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*.

definition of restricted advertising set out in *Policies for local programming on commercial radio stations and advertising on campus stations*, Public Notice CRTC 1993-38, 19 April 1993, as amended from time to time.

6. The licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of service will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
7. In order to comply with the requirements set out in section 16 of the *Radio Regulations, 1986*, and in *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014, the licensee shall implement the National Public Alerting System (NPAS) by no later than **30 November 2023**. As part of this requirement:
  - a. The licensee must file with the Commission a letter attesting to the implementation date of its NPAS within 14 days after the installation. In this letter, the licensee must confirm whether maintenance, testing and updating procedures have been adopted for its automated emergency alert message distribution equipment.
  - b. In addition, the licensee must file with the Commission the results of its first NPAS test, as scheduled by the relevant alerting authorities, within two weeks after the occurrence of such a system test.

## **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 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.

### **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 in its hiring practices and in all other aspects of its management of human resources.