



Broadcasting Decision CRTC 2023-261

PDF version

Reference: Part 1 licence renewal application posted on 22 November 2022

Ottawa, 18 August 2023

Radio Vie Nouvelle

Ottawa, Ontario

Public record: 2022-0602-8

CJVN-FM Ottawa – Licence renewal

Summary

The Commission **renews** the broadcasting licence for the low-power, French-language commercial specialty (Religious music) radio station CJVN-FM Ottawa, Ontario, from 1 September 2023 to 31 August 2027. 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 2022-152,¹ 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, Radio Vie Nouvelle filed an application to renew the broadcasting licence for the low-power, French-language commercial specialty (Religious music) radio station CJVN-FM Ottawa, Ontario, which expires 31 August 2023.² The Commission did not receive any interventions in regard to this application.

¹ As corrected by Broadcasting Notice of Consultation 2022-152-1.

² 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 2021-298.

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, the annual returns for the 2015-2016 and 2016-2017 broadcast years were filed late, on 4 September 2018. In addition, the annual returns for the 2017-2018 to 2020-2021 broadcast years were not filed until 16 October 2022, in response to a request for information from Commission staff as part of the current licence renewal process. Finally, all of the financial statements submitted were incomplete, as they were prepared on a calendar fiscal year basis (1 January to 31 December) rather than on a broadcast year basis (1 September to 31 August).
8. The licensee stated that during the station's first two years of operation (2015-2016 and 2016-2017), it lacked technical support from Commission staff in using the computer system. For the 2017-2018 to 2020-2021 broadcast years, the licensee pointed out that it had the annual returns in PDF format, but that using the Commission's computer system had proved to be a major challenge in transcribing the data. According to the licensee, it was the fear of entering the data incorrectly that was at the root of the non-compliance, and not a lack of will on its part.
9. As for the financial statements, the licensee stated that it normally produces its financial statements according to the year prescribed by Revenue Canada, i.e. from 1 January to 31 December, and it believed that the same period applied to the financial statements required by the Commission.

10. The licensee has committed to making the necessary corrections and has indicated that it has entrusted the task of transcribing the annual returns to an accountant capable of using the Commission's reporting forms.
11. In light of the above, the Commission finds the licensee in non-compliance with subsection 9(2) of the Regulations for the 2015-2016 to 2020-2021 broadcast years.

Implementation of a National Public Alerting System

12. 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).
13. 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.
14. According to Commission records, the licensee did not implement the NPAS when the station was launched in December 2015.
15. The licensee stated that the station did not have the financial capacity to purchase and install the NPAS, given the high cost of the system and the station's very limited financial performance. However, the licensee indicated that it intended to install the NPAS before 30 June 2023. It added that it had made efforts over the past two years to rationalize its expenses in order to free up the sums needed to purchase and implement the alert system.
16. In light of the above, the Commission finds the licensee in non-compliance with subsection 16(2) of the Regulations.

Other issues

17. In Broadcasting Decision 2014-382, in which the Commission approved the licensee's application to operate the station, the Commission noted the licensee's

commitments with respect to a Canadian Content Development (CCD) contribution and the solicitation of advertising.

CCD contribution

18. During the initial licensing process for the station, the licensee committed to make, from the very first year of the station's operation, an annual CCD contribution of \$5,000 to local artists.
19. In response to a request for information from the Commission, the licensee stated that financial difficulties experienced from the start of the station's operation prevented it from fulfilling this commitment.
20. Although CCD contributions are usually imposed through conditions of licence (conditions of service), in this case, since the station is low-power, the Commission noted the licensee's commitment in the licensing decision rather than imposing a condition to this effect.
21. In view of the importance of CCD contributions, the Commission considers that this commitment should be retained for the next licensing period.

Solicitation of advertising

22. During the initial licensing process for the station, the licensee also committed not to solicit or accept advertising. According to the Commission's records, the licensee reported advertising revenues for the years 2018 to 2021.
23. However, pursuant to Broadcasting Regulatory Policy 2022-334, which sets out standard conditions of licence (conditions of service) for commercial radio stations, Radio Vie Nouvelle may accept and solicit advertising during any broadcast week in which it devotes at least one-third of its programming to local programming.
24. To this end, the licensee proposes to offer 126 hours of local programming per broadcast week during the next licence term and considers that it would be logical to lift this commitment for the next licence term.
25. In light of the above, the Commission considers that this commitment should not be retained for the next licence term.

Regulatory measures

26. 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.

27. In regard to CJVN-FM and the licensee's non-compliance with subsection 9(2) of the Regulations, the Commission notes that the licensee is in its first licence term and is in non-compliance with the filing of its annual returns for the entirety of its current licence term. The Commission notes that the licensee does not appear to take full responsibility for its non-compliance, blaming the Commission for the late filing of the annual returns. The Commission reiterates that it offers a help line for small businesses to access the data collection system.
28. In regard to the licensee's non-compliance with subsection 16(2) of the Regulations, the Commission notes that the station went on air in December 2015 and that the licensee was required to implement the NPAS as soon as possible in order to comply with subsection 16(2) of the Regulations. More than seven years have passed since the station went on air and, according to the latest communications from the licensee, the system has still not been installed. The Commission considers this non-compliance to be very serious.
29. The Commission has reviewed the public record of this application and notes the licensee's commitment to ensuring that the station complies with its regulatory requirements. However, given the seriousness of the various instances of non-compliance regarding the implementation of the NPAS and the filing of complete and timely annual returns, the Commission finds that it would be appropriate to renew CJVN-FM's broadcasting licence for a short-term period, which will allow for an earlier review of the licensee's compliance with its regulatory requirements. In addition, and in accordance with subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Radio Vie Nouvelle, as a **condition of service**, to install the NPAS by no later than **30 November 2023**, and to provide evidence of its implementation. Details of this condition of service are set out in the appendix to this decision.
30. 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 sufficient to achieve the purposes of the publication and consultation requirement set out in subsection 9.1(4) of the new *Broadcasting Act* in this case.

Conclusion

31. In light of all of the above, the Commission **renews** the broadcasting licence for the low-power, French-language commercial specialty (Religious music) radio station CJVN-FM Ottawa, Ontario, from 1 September 2023 to 31 August 2027.
32. Pursuant to subsections 49(1) and 50(2) 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*, or subsection 11.1(2) in the case of expenditure requirements. As

such, the conditions of licence for this licensee became conditions of service and continue to apply to the licensee.

33. In light of paragraphs 1 and 32 of this decision, the Commission has set out **conditions of service** for this licensee 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

34. The Commission reminds the licensee of its commitment, made at the time of licensing, to make an annual CCD contribution of \$5,000.
35. 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

36. Licensees are responsible for filing complete annual returns on time, representing a broadcast year. A broadcast year is from 1 September of a given year to 31 August of the next year. In addition, 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.

National Public Alerting System

37. 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

38. 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.

39. 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

40. 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

41. 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 conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2022-334, 7 December 2022
- *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 radio and audio programming undertakings and network – Administrative renewals*, Broadcasting Decision CRTC 2021-298, 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

- *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*
- *Low-power French-language specialty commercial FM radio station in Ottawa, Broadcasting Decision CRTC 2014-382, 22 July 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 2023-261

Terms, conditions of service, expectations and encouragement for the low-power, French-language commercial specialty (Religious music) radio programming undertaking CJVN-FM Ottawa, Ontario

Terms

The licence will expire 31 August 2027.

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, with the exception of condition of service 7, as well as to the conditions 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*.³
3. The station shall be operated within the Specialty format as defined in *A Review of Certain Matters Concerning Radio*, Public Notice CRTC 1995-60, 21 April 1995, in conjunction with *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2022-333, 7 December 2022.
4. The licensee shall devote at least 90% of all musical selections broadcast during the broadcast week to selections drawn from content subcategory 35 (Non-classic religious). The licensee shall devote the remainder of the musical selections broadcast to selections drawn from subcategory 33 (World beat and international).

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

5. In order to comply with the requirements set out in section 16(2) 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:

³ 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*.

- (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.