



Broadcasting Decision CRTC 2023-281

PDF version

References: 2023-6, 2023-6-1, 2023-6-2 and 2023-6-3

Ottawa, 24 August 2023

Radio Témiscamingue incorporée

Ville-Marie, Quebec

Public record: 2022-0198-7

Virtual public hearing in the National Capital Region

3 May 2023

CKVM-FM Ville-Marie and its transmitter CKVM-1-FM Témiscaming – Licence renewal

Summary

The Commission **renews** the broadcasting licence for the French-language commercial radio station CKVM-FM Ville-Marie, Quebec, and its transmitter CKVM-1-FM Témiscaming, 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 Témiscamingue incorporée filed an application to renew the broadcasting licence for the French-language commercial radio station CKVM-FM Ville-Marie, Quebec, and its transmitter CKVM-1-FM Témiscaming, which expires

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

31 August 2023.² The Commission received many interventions in support of this application from individuals and local organizations.

Background

4. In Broadcasting Decision 2007-331, the Commission renewed the broadcasting licence for CKVM-FM for a short-term period due to the licensee's non-compliance with subsection 2.2(5) of the *Radio Regulations, 1986* (the Regulations) relating to the broadcast of French-language vocal musical selections.
5. In Broadcasting Decisions 2010-430 and 2013-692, the Commission renewed the broadcasting licence for CKVM-FM for short-term periods due to the licensee's non-compliance with subsection 9(2) of the Regulations relating to the filing of annual returns.
6. In Broadcasting Decision 2020-50, the Commission renewed the broadcasting licence for CKVM-FM for a short-term period due to the licensee's non-compliance with the following:
 - subsections 8(1) and 8(2) of the Regulations relating to the filing of a program log or a record of the matter broadcast;
 - paragraph 9(3)(a) of the Regulations relating to the filing of an accurate self-assessment report;
 - paragraph 9(3)(b) of the Regulations relating to the filing of a complete and accurate music list; and
 - condition of licence 2 set out in the appendix to Broadcasting Decision 2013-692 relating to the filing of a self-assessment report every three months.

Non-compliance

7. In Broadcasting Notice of Consultation 2023-6, the Commission stated that the licensee was in apparent non-compliance with the following:
 - paragraphs 9(3)(a) and 9(3)(b) of the Regulations relating, respectively, to the filing of a complete and accurate self-assessment report and the filing of a complete and accurate music list; and
 - condition of licence 2 set out in the appendix to Broadcasting Decision 2020-50 relating to the filing of a self-assessment report every three months.

² The original licence expiry date for the station was 31 August 2022. The licence was administratively renewed until 31 August 2023 as a result of Broadcasting Decision 2021-297.

Radio monitoring material

8. Paragraph 10(1)(i) 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 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.
9. Pursuant to this authority, the Commission made paragraph 9(3)(a) of the Regulations, which specifies that a licensee shall submit the information required by the station self-assessment report when requested by the Commission. The Commission also made paragraph 9(3)(b) of the Regulations, which sets out the requirements regarding the information on musical selections that licensees must include in their lists of musical selections for any period specified by the Commission.
10. 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, paragraphs 9(3)(a) and 9(3)(b) of the Regulations are considered to be conditions of service pursuant to paragraph 9.1(1)(o) of the new *Broadcasting Act*, and licensees continue to be subject to these requirements.
11. During the licence renewal proceeding for CKVM-FM, the Commission noted the following irregularities for the 3 to 9 October broadcast week:
 - the self-assessment report represented what was listed in the music list, but this list did not include the pieces played during the purchased programs. Therefore, the self-assessment report did not represent what was actually broadcast during the week in question;
 - regarding the music list, 120 musical selections were identified as “broadcast, but not registered,” which represents an estimated discrepancy of 6.4% between the number of selections reported and the number actually broadcast.
12. The licensee indicated that the non-compliance was not committed in bad faith. It had omitted to indicate the Canadian content of these selections and understands that this effectively alters the picture of what was actually broadcast. At the hearing, the station's general manager pointed out that, when she took up her position, she had not fully mastered her job in terms of what she had to do with respect to the licence.
13. The licensee commits to provide a reconciled report from now on, including all the information on the origin of the musical selections and the Canadian content. It added that employees are now required to forward the report to the general manager before sending it to ensure that it has been properly done.

14. In light of the above, the Commission finds the licensee in non-compliance with paragraphs 9(3)(a) and 9(3)(b) of the Regulations.

Condition of service 2 relating to the filing of a self-assessment report every three months

15. Pursuant to subsection 9(1) of the old *Broadcasting Act*, the Commission had the authority to impose conditions of licence (conditions of service) related to the circumstances of the licensee as it deemed appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of that Act.

16. Given its past non-compliance, Radio Témiscamingue incorporée is subject to a condition of service requiring that it submit, every three months, a self-assessment report on the programming aired during a given week. This condition of service specifies that the report must demonstrate that the licensee has complied with the Regulations, the Commission's policies and the conditions of its licence. It also specifies that the report must demonstrate that the licensee has complied with the requirements of subsection 2.2(5) of the Regulations relating to the percentage of French-language vocal musical selections broadcast in their entirety during the entire broadcast week.

17. According to Commission records, during the period from 1 April 2020 to 31 August 2022, the licensee did not file many of the required reports.

18. The licensee reiterated that the general manager took up her position in March 2020, at the beginning of the pandemic. In addition, a staff shortage required the reorganization of positions and a review of schedules and ways of doing things. In addition, changes to on-air software, routing and music selection required a period of training and adaptation. As such, no one at the station was able to provide reports during the period in question.

19. The licensee claimed to have familiarized itself with the regulatory requirements. In addition, a program has been installed to facilitate the provision of reports as required by the Commission. A reminder has also been added to the calendar to ensure that quarterly reports are made and sent on time.

20. The licensee also pointed out that the Simian software previously used had been replaced by WinMedia software. The information is now digital, making it easier to compile and extract data for reports. In addition, French-language musical selections are identified.

21. In light of the above, the Commission finds the licensee in non-compliance with condition of service 2 set out in the appendix of the Broadcasting Decision 2020-50.

Regulatory measures

22. 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.

23. As set out in Broadcasting Regulatory Policy 2014-554, for stations that are in non-compliance, and depending on the nature of the non-compliance, the Commission may apply, on a case-by-case basis, measures such as renewing the licence for a short term; imposing additional conditions of licence (conditions of service); calling the licensee to a public hearing to respond to and discuss apparent non-compliance; issuing a mandatory order requiring the licensee to comply with regulatory requirements; or suspending, not renewing, or revoking the licence.
24. The Commission has examined the public record for this application and notes the licensee's willingness to ensure the station's compliance with regulatory requirements. In addition, since the last correspondence with Commission staff, the licensee has complied with condition of service 2. However, given the seriousness of the various instances of non-compliance along with the recurrence of the licensee's non-compliance with paragraphs 9(3)(a) and 9(3)(b) of the Regulations as well as with condition of service 2, the Commission finds that it would be appropriate to renew the broadcasting licence for CKVM-FM for a short-term period, which will allow for an earlier review of the licensee's compliance with its regulatory requirements.

Conclusion

25. In light of all of the above, the Commission **renews** the broadcasting licence for the French-language commercial radio programming undertaking CKVM-FM Ville-Marie, Quebec, and its transmitter CKVM-1-FM Témiscaming, from 1 September 2023 to 31 August 2027.
26. 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.

Reminders

27. 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. Should the licensee continue to be in non-compliance with

regulatory requirements, the Commission may consider recourse to additional measures, including the issuance of a mandatory order, or the revocation, non-renewal or suspension of the licence pursuant to sections 9 and 24 of the *Broadcasting Act*.

Radio monitoring materials

28. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. The submission of complete and accurate radio monitoring materials enables the Commission to conduct an analysis of a station's programming to verify compliance with the Regulations and conditions of service. The retention of these radio monitoring materials makes it possible for the Commission to investigate a station's programming in the case of complaints. As such, any licensee that does not file the requested material in a timely manner, files material that is incomplete or does not file the material at all, affects the ability of the Commission to adequately perform its duty to independently confirm the licensee's adherence to its regulatory obligations. These filings also become important indicators of whether the licensee has the willingness, ability and knowledge necessary to bring itself into compliance and maintain such compliance.

Local news

29. 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.

30. 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

31. 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 certificates issued by the Department of Industry (also known as Innovation, Science and Economic Development Canada) lapse.

Practical guide for radio licence renewals

32. 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

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2023-6, 10 January 2023, as amended by Broadcasting Notices of Consultation CRTC 2023-6-1, 27 January 2023; 2023-6-2, 10 February 2023; and 2023-6-3, 2 May 2023
- *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 programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2021-297, 30 August 2021
- *CKVM-FM Ville-Marie and its transmitter CKVM-1-FM Témiscaming – Licence renewal*, Broadcasting Decision CRTC 2020-50, 6 February 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
- *CKVM-FM Ville-Marie and its transmitter CKVM-1-FM Témiscaming – Licence renewal*, Broadcasting Decision CRTC 2013-692, 13 December 2013
- *CKVM-FM Ville-Marie and its transmitter – Licence renewal*, Broadcasting Decision CRTC 2010-430, 30 June 2010
- *CKVM-FM Ville-Marie and its transmitter CKVM-1-FM Témiscaming – Licence renewal*, Broadcasting Decision CRTC 2007-331, 28 August 2007

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-281

Terms, conditions of service, expectations and encouragement for the French-language commercial radio programming undertaking CKVM-FM Ville-Marie, Quebec, and its transmitter CKVM-1-FM Témiscaming

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. 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*.³
3. Every three months, the licensee shall submit to the Commission a self-assessment report on the programming aired during a given week. This report must demonstrate that the licensee has complied with the *Radio Regulations, 1986* (the Regulations), the Commission's policies, and the conditions of its licence. Further, the report must demonstrate that the licensee has complied with the requirements of subsection 2.2(5) of the Regulations relating to the percentage of French-language vocal musical selections broadcast in their entirety during the entire broadcast week.

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

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*.

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.