



Broadcasting Decision CRTC 2023-290

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

Ottawa, 25 August 2023

Radio-Ville-Marie
Montréal, Quebec

Public record: 2022-0613-5

Public hearing in the National Capital Region
3 May 2023

CIRA-FM Montréal, Quebec, and its transmitters CIRA-FM-2 Trois-Rivières, CIRA-FM-3 Victoriaville and CIRA-FM-4 Rimouski – Licence renewal

Summary

The Commission **renews** the broadcasting licence for the French-language predominantly religious commercial radio station CIRA-FM Montréal, Quebec, and its transmitters CIRA-FM-2 Trois-Rivières, CIRA-FM-3 Victoriaville and CIRA-FM-4 Rimouski 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), 9.1(1) and 11.1(2) 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*, and to make orders respecting expenditures.
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-Ville-Marie filed an application to renew the broadcasting licence for the French-language predominantly religious commercial radio station

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

CIRA-FM Montréal, Quebec, and its transmitters CIRA-FM-2 Trois-Rivières, CIRA-FM-3 Victoriaville and CIRA-FM-4 Rimouski, which expires 31 August 2023.² The Commission did not receive any interventions in regard to this application.

Background

4. In Broadcasting Decision 2017-305, the Commission found the licensee in non-compliance with:
 - subsections 8(4) and 8(6) and paragraph 9(3)(b) of the *Radio Regulations, 1986* (the Regulations) in regard to radio monitoring equipment;
 - subsection 9(2) of the Regulations relating to the filing of complete annual returns;
 - paragraph 9(4)(b) of the Regulations relating to the requirement for licensees to respond to all requests for information from the Commission.
5. Further, the Commission found that the licensee, by soliciting funds, did not comply with the requirements set out in Public Notice 1993-78.

Apparent non-compliance

6. In Broadcasting Notices of Consultation 2023-6 and 2023-6-2, the Commission indicated that the licensee was in apparent non-compliance with:
 - subsection 2.2(5) of the Regulations, which requires the licensee to devote, during each broadcast week, at least 65% of its vocal musical selections from content category 2 (Popular Music) to French-language musical selections broadcast in their entirety;
 - subsections 2.2(8) and 2.2(9) of the Regulations, which require the licensee to devote, during 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 its musical selections from content category 2 (Popular Music) to Canadian musical selections broadcast in their entirety; and
 - paragraph 9(3)(a) of the Regulations relating to the filing of a complete and accurate self-assessment report.

Broadcast of French-language vocal music

7. Subsection 10(1) of the *Broadcasting Act* authorizes the Commission to make regulations in furtherance of its objects, including the allocation of broadcasting

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 2021-298.

time for the purpose of giving effect to the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*.

8. Subparagraph 3(1)(d)(iii) of the old *Broadcasting Act* declared that the Canadian broadcasting system should serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous peoples within that society. The old *Broadcasting Act* also provided that the broadcasting system operates primarily in English and French (paragraph 3(1)(b)) and that, while sharing common aspects, English- and French-language broadcasting operate under different conditions and may have different requirements (paragraph 3(1)(c)).
9. Pursuant to the authority granted by section 10(1) of the *Broadcasting Act*, and consistent with the policy set out in subsection 3(1), the Commission made subsection 2.2(5) of the Regulations, which sets out the Commission's requirement relating to the broadcast of French-language vocal musical selections. Specifically, licensees of AM, FM or digital campus, commercial or community radio stations that are operated in the French language must, unless otherwise authorized by condition of service, ensure that at least 65% of vocal musical selections from content category 2 (Popular Music) that are broadcast each broadcast week are devoted to French-language musical selections broadcast in their entirety.
10. According to Commission records, 60% of the vocal musical selections from content category 2 broadcast during the week of 3 to 9 October 2021 were devoted to French-language vocal musical selections broadcast in their entirety, which represents a 5% discrepancy.
11. Radio-Ville-Marie submitted that exceptional circumstances stemming from the COVID-19 pandemic caused this instance of non-compliance and that the regular production of live, French music concerts had been suspended since March 2020. Additionally, in a response to a 16 February 2022 monitoring report, it explained that it was planning to add more than 5 hours of new programs consisting of Canadian Francophone music content to its weekly programming. It also indicated that this addition would ensure that the percentage thresholds indicated in the current licence obligations would be exceeded.
12. In light of the above, the Commission finds the licensee in non-compliance with subsection 2.2(5) of the Regulations relating to the broadcast of music from content category 2 (Popular Music).

Broadcast of Canadian musical selections

13. 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 to 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*).

14. Pursuant to the authority granted by paragraph 10(1)(a) of the old *Broadcasting Act*, and consistent with the provision 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.
15. 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)(a) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*. Accordingly, subsections 2.2(8) and 2.2(9) 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 those requirements.
16. According to Commission records, 27% of the musical selections from content category 2 (Popular Music) broadcast on CIRA-FM during the week of 3 to 9 October 2021 were devoted to Canadian musical selections broadcast in their entirety, which represents an 8% discrepancy. In regard to the 6:00 a.m. to 6:00 p.m. period between Monday and Friday of that same week, 31% of the selections from content category 2 were devoted to Canadian musical selections, a 4% discrepancy.
17. Radio-Ville-Marie indicated that exceptional circumstances stemming from the COVID-19 pandemic caused these instances of non-compliance with those requirements. It indicated that it acted as soon as it received the monitoring report and that it has started a process to hire an additional person who will be dedicated to ensuring the station's compliance with its regulatory requirements.
18. 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 relating to the broadcast of music from content category 2 (Popular Music).

Self-assessment report

19. 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.

20. 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.
21. Subsection 49(2) of the *Online Streaming Act* 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, paragraph 9(3)(a) of the Regulations is considered to be a condition of service pursuant to paragraph 9.1(1)(o) of the new *Broadcasting Act*, and licensees continue to be subject to this requirement.
22. According to the Commission records, for the week of 3 to 9 October 2021, there was a discrepancy between the totals indicated in the music list and those indicated in the self-assessment report for selections from content category 2 (Popular Music) (253 versus 251) and selections from content category 3 (Special Interest Music) (331 versus 276).
23. Radio-Ville-Marie indicated that it acted as soon as it received the monitoring report to ensure the station's compliance with its regulatory requirements by initiating a process to hire an additional person who will be dedicated to ensuring the station's compliance with its regulatory requirements.
24. In light of the above, the Commission finds the licensee in non-compliance with paragraph 9(3)(a) of the Regulations relating to the filing of a complete and accurate self-assessment report.

Regulatory measures

25. 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.
26. As set out in Broadcasting Regulatory Policy 2014-554, when a licensee is 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.

27. In the same regulatory policy, the Commission stated that in cases of non-compliance relating to programming (including music programming), it was appropriate to take measures that could, in some situations, compel radio station licensees in non-compliance to make Canadian content development (CCD) contributions higher than those required by the Regulations and their current conditions. In a request for information dated 29 September 2022, Radio-Ville-Marie was advised that the Commission could impose a corrective measure of this type and that the contribution amount could be up to \$12,412. Radio-Ville-Marie replied that it could agree to contribute voluntarily to CCD rather than being required to do so.
28. In regard to CIRA-FM and the licensee's non-compliance with subsections 2.2(5), 2.2(8) and 2.2(9) and paragraph 9(3)(a) of the Regulations, the Commission acknowledges the licensee's willingness to increase Canadian content broadcast over the air, to adhere to the required levels of Canadian content and French-language vocal musical selections, and to comply with its regulatory obligations.
29. The Commission is, nevertheless, of the view that the large divergences from the thresholds for the broadcast of Canadian content and French-language vocal musical selections cannot be overlooked. Failing to comply with obligations to broadcast Canadian content and French-language vocal musical selections has the potential to cause harm to the Canadian broadcasting system as it not only deprives Canadian artists of royalties but also of airplay, which in turn reduces their exposure to audiences.
30. Given the seriousness of the licensee's non-compliance with subsections 2.2(5), 2.2(8) and 2.2(9) of the Regulations, that is, with the requirements relating to Canadian content and French-language vocal musical selections, the Commission considers it appropriate to require that an over-and-above CCD contribution of \$12,412 be made during the 2023-2024 broadcast year as a corrective measure to compensate for the losses caused to the broadcasting system. Of this amount, 60% should be paid to FACTOR and 40% to Musicaction. Accordingly, the Commission **orders** Radio-Ville-Marie, as a **condition of service**, to make an over-and-above contribution by 31 August 2024 and to provide proof of payment to the Commission by **30 November 2024**.
31. 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 required levels of Canadian content and French-language vocal musical selections as part of that process, the Commission considers the public proceeding sufficient to achieve the purposes of the publication and consultation requirement set out in subsections 9.1(4) and 11.1(7) of the new *Broadcasting Act* in this case.
32. Given the seriousness of the non-compliance and that this is the second consecutive licence term in which CIRA-FM has been found in non-compliance, the Commission finds it appropriate to renew the licence for the station for a short-term

period, which will allow for an earlier review of the licensee's compliance with its regulatory requirements.

Conclusion

33. In light of all of the above, the Commission **renews** the broadcasting licence for the French-language predominantly religious commercial radio programming undertaking CIRA-FM Montréal, Quebec, and its transmitters CIRA-FM-2 Trois-Rivières, CIRA-FM-3 Victoriaville and CIRA-FM-4 Rimouski, from 1 September 2023 to 31 August 2028.
34. 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*, 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.
35. In light of paragraphs 1 and 34 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

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

Radio monitoring materials

37. 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.

Canadian programming requirements

38. 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.

Local news

39. 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.
40. 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

41. 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

42. 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
- *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
- *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 amended 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
- *CIRA-FM Montréal and its transmitters CIRA-FM-2 Trois-Rivières, CIRA-FM-3 Victoriaville and CIRA-FM-4 Rimouski – Licence renewal*, Broadcasting Decision CRTC 2017-305, 25 August 2017
- *Update on the Commission’s approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-290

Terms, conditions of service, expectations and encouragements for the French-language predominantly religious commercial radio programming undertaking CIRA-FM Montréal, Quebec, and its transmitters CIRA-FM-2 Trois-Rivières, CIRA-FM-3 Victoriaville and CIRA-FM-4 Rimouski

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*.³
3. The licensee shall devote the majority of the broadcast week to broadcasting religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993.
4. The licensee shall adhere to the guidelines on ethics for religious programming set out in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, regarding the solicitation of funds and religious programming practices.
5. The licensee shall broadcast not more than 6 minutes of advertising in each hour of broadcast, and it shall not broadcast more than an average of 4 minutes of advertising per hour of broadcast, up to a total of 504 minutes of advertising per broadcast week.
6. If the licensee originates 42 or more hours of programming in any broadcast week, the licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. 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. The licensee shall adhere to the *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.

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*.

8. The licensee is authorized to use a subsidiary communications multiplex operations (SCMO) channel in order to distribute the predominantly Italian-language non-commercial religious service of Radio Maria Canada inc.
9. The licensee shall neither solicit nor accept advertising, paid or unpaid, for broadcast on the predominantly Italian-language non-commercial religious service of Radio Maria Canada inc. For the purposes of this condition, “advertising” means “commercial message” as defined in the *Radio Regulations, 1986*.
10. The licensee shall adhere to the applicable guidelines set out in *Services Using the Vertical Blanking Interval (Television) or Subsidiary Communications Multiplex Operation (FM)*, Public Notice CRTC 1989-23, 23 March 1989.
11. In addition to the required basic contribution to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, the licensee shall make an over-and-above CCD contribution of \$12,412 during the 2023-2024 broadcast year, allocating 60% of that amount to FACTOR and 40% to Musicaction. Proof of payment must be submitted to the Commission by **30 November 2024**.

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.

Encouragements

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.

The Commission encourages the licensee to exceed the required French-language vocal music thresholds, as it had indicated intending to do in its response to the 16 February 2020 monitoring report.