



Broadcasting Decision CRTC 2012-690

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Route reference: 2012-461

Ottawa, 19 December 2012

N L Broadcasting Ltd.

Kamloops, British Columbia

Application 2010-1909-2, received 29 December 2010

CJKC-FM Kamloops – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CJKC-FM Kamloops from 1 January 2013 to 31 August 2016. This short-term licence renewal will allow for an earlier review of the licensee's compliance with the Radio Regulations, 1986 and its conditions of licence.*

Introduction

1. The Commission received an application by N L Broadcasting Ltd. (N L Broadcasting) to renew the broadcasting licence for the English-language commercial radio programming undertaking CJKC-FM Kamloops, which expires 31 December 2012.¹ The Commission did not receive any interventions in connection with this application.
2. In Broadcasting Notice of Consultation 2012-461, the Commission stated that the licensee may have failed to comply with section 15 of the *Radio Regulations, 1986* (the Regulations) as it relates to Canadian content development (CCD) for the 2007-2008 and 2008-2009 broadcast years, as well as with section 9(2) of the Regulations concerning the filing of annual returns for the 2007-2008 broadcast year.
3. As regards CCD contributions for the 2007-2008 and 2008-2009 broadcast years, the Commission notes, upon further review, that the licensee appears to be in non-compliance with its condition of licence regarding Canadian talent development (CTD) contributions rather than section 15 of the Regulations.²

¹ The original licence expiry date for the station was 31 August 2011. The licence was administratively renewed from 1 September 2011 to 31 December 2012 as a result of Broadcasting Decisions 2011-556, 2012-164 and 2012-456.

² In Broadcasting Public Notice 2006-158, the Commission replaced the CTD regime with the CCD regime.

Commission's analysis and decisions

4. After examining the application in light of applicable regulations and policies, the Commission considers that the issues to be addressed in its determinations relate to these apparent instances of non-compliance.

Compliance with CJKC-FM's condition of licence relating to CTD contributions and section 9(2) of the Regulations relating to the provision of complete annual returns

5. Pursuant to Broadcasting Decision 2005-341, the licensee is required to make direct annual contributions of at least \$25,500 to CTD. Since the station launched in 2006, these contributions must be completed by the end of the 2012-2013 broadcast year.
6. Section 9(2) of the Regulations requires that on or before 30 November of each year, a licensee submit to the Commission a complete statement of accounts, on the annual return of broadcasting licensee form, for the broadcast year ending on the previous 31 August. As indicated in Broadcasting Information Bulletin 2011-795, licensees are required to file, as part of their annual returns, proof of payment and eligibility of CTD initiatives, now known as CCD initiatives.
7. However, according to Commission records, the licensee submitted no supporting documentation with the 2007-2008 annual return to show proof of a CTD contribution of \$13,133.20 for that broadcast year.
8. In response to correspondence from the Commission, N L Broadcasting indicated that the lack of supporting documentation to show proof of the payment in question was due to an oversight on its part, and included some proof of payment with its response.
9. However, the licensee did not provide any documents describing the event towards which a \$1,000 contribution to the City of Kamloops – “Sponsorship of Fera” was related. In addition, the licensee claimed a contribution of \$11,263 for a Free Community Concert. Of this total amount, \$1,700 in expenditures could not be verified, as it was not accompanied by the required supporting documents. Further, that total claimed included \$196.50 in taxes, which are not eligible. The licensee also claimed a \$4,391.50 contribution to a Songwriters Symposium but provided no documents describing the event and supporting the expenses. Consequently, the Commission finds that a \$7,287 shortfall remains for the 2007-2008 broadcast year.
10. The Commission records also show that the licensee claimed an apparent ineligible expenditure as part of its annual CCD contribution for the 2008-2009 broadcast year. This consisted of an expenditure that the licensee made toward the station's membership in the Canadian Country Music Association. The Commission has excluded this expenditure from the station's total annual CCD contribution, resulting in an additional shortfall of \$22.50 for that broadcast year.

11. Because the licensee did not provide supporting documents to verify all of the expenditures claimed in its annual return for the 2007-2008 broadcast year, the Commission could not establish that CJKC-FM met its requirements pursuant to its condition of licence.
12. In light of all of the above, the Commission finds that the licensee is in non-compliance with its condition of licence relating to CTD payments for the 2007-2008 and 2008-2009 broadcast years. The Commission also finds that the licensee is in non-compliance with section 9(2) of the Regulations, relating to the filing of annual returns for the 2007-2008 broadcast year. The Commission therefore directs the licensee to fulfill the total shortfall of \$7,309.50, and to provide the missing proofs of payment and proof of eligibility to the Commission no later than **6 May 2013**. A **condition of licence** to this effect is set out in the appendix to this decision.

Conclusion

13. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to dealing with radio stations found in non-compliance. The Commission noted in particular that each instance of non-compliance will be evaluated in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also noted that it will consider the circumstances leading to the non-compliance in question, the licensee's arguments and the measures taken to rectify the situation.
14. In accordance with its revised approach regarding radio non-compliance, the Commission considers that a short-term renewal period for CJKC-FM would be appropriate. Accordingly, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CJKC-FM Kamloops from 1 January 2013 to 31 August 2016. This short-term renewal will allow for an earlier review of the licensee's compliance with the *Radio Regulations, 1986* and its conditions of licence.
15. The licence will be subject to the terms and **conditions of licence** set out in the appendix to this decision.

Secretary General

Related documents

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2012-461, 28 August 2012
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2012-456, 28 August 2012

- *Administrative renewals*, Broadcasting Decision CRTC 2012-164, 20 March 2012
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Administrative renewals*, Broadcasting Decision CRTC 2011-556, 31 August 2011, as amended by Broadcasting Decision CRTC 2011-556-1, 23 September 2011, Broadcasting Decision CRTC 2011-556-2, 16 December 2011 and Broadcasting Decision CRTC 2011-556-3, 5 April 2012
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *English-language FM radio station in Kamloops*, Broadcasting Decision CRTC 2005-341, 21 July 2005

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

Appendix to Broadcasting Decision CRTC 2012-690

Terms and conditions of licence for the English-language commercial radio programming undertaking CJKC-FM Kamloops, British Columbia

Terms

The licence will expire 31 August 2016.

Conditions of licence

1. The licensee shall adhere to *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. The licensee shall ensure that, in each broadcast week, a minimum of 40% of all musical selections from content category 2 (Popular Music) will be devoted to Canadian selections broadcast in their entirety. This condition will apply both to the broadcast week and to the period between 6 a.m. and 6 p.m., Monday to Friday.
3. In addition to the requirements of section 15 of the *Radio Regulations, 1986*, the licensee shall, by no later than **6 May 2013** contribute and provide proof of payment to the Commission of \$7,309.50 to an eligible Canadian content development initiative or initiatives as described in *Commercial Radio Policy*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.
4. In order to fulfil its original condition of licence relating to Canadian talent development (now Canadian content development), as set out in *English-language FM radio station in Kamloops*, Broadcasting Decision CRTC 2005-341, 21 July 2005, the licensee shall contribute at least \$25,500 for the 2012-2013 broadcast year to an eligible Canadian content development initiative or initiatives as described in *Commercial Radio Policy*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Encouragement

Employment equity

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 issues in its hiring practices and in all aspects of its management of human resources.