



## Broadcasting Decision CRTC 2013-717

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Route reference: 2013-325

Ottawa, 18 December 2013

**Cogeco Diffusion Acquisitions inc.**  
Sherbrooke and Trois-Rivières, Quebec

*Applications 2013-0219-0 and 2013-0221-5, received 25 January 2013*

### **CKOY-FM Sherbrooke and CKOB-FM Trois-Rivières – Licence renewals**

*The Commission **renews** the broadcasting licences for the French-language commercial radio stations CKOY-FM Sherbrooke and CKOB-FM Trois-Rivières, Quebec, from 1 January 2014 to 31 August 2018. These short-term renewals will allow for an earlier review of the licensee's compliance with its regulatory requirements.*

#### **Introduction**

1. Cogeco Diffusion Acquisitions inc. (Cogeco) filed applications to renew the broadcasting licences for the French-language commercial radio stations CKOY-FM Sherbrooke (2013-0219-0) and CKOB-FM Trois-Rivières (2013-0221-5), both of which expire 31 December 2013.<sup>1</sup>
2. In Broadcasting Decision 2010-942, the Commission approved the transfer of the effective control of CKOY-FM (formerly CHLT-FM) and CKOB-FM (formerly CHLN-FM) from Corus Entertainment Inc. (Corus) to Cogeco.
3. The Commission received an intervention in support of the application to renew the broadcasting licence for CKOB-FM. The Commission also received interventions for both applications from the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), and from the Ministère de la Culture et des Communications and the Ministère de la Sécurité Publique (the Ministères) on behalf of the Government of Quebec. The licensee replied to the interventions. The public record for these applications can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
4. The intervention by the Ministères related the station's participation in the National Public Alerting System (NPAS). As specified in its three-year plan, the Commission

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<sup>1</sup>The original expiry date of the licences for CKOY-FM and CKOB-FM was 31 August 2013. The broadcasting licences were administratively renewed until 31 December 2013 in Broadcasting Decision 2013-418.

will be looking at measures to ensure that Canadian broadcasting and telecommunications companies participate in the NPAS. Therefore, for the time being, the Commission will not impose any conditions of licence requiring broadcasters to participate in NPAS. However, the Commission expects licensees to participate in NPAS on a voluntary basis so that Canadians receive timely warning of imminent perils.

### **Non-compliance**

5. In Broadcasting Notice of Consultation 2013-325, the Commission stated that for both CKOY-FM and CKOB-FM, the licensee was in apparent non-compliance with section 15(2) of the *Radio Regulation, 1986* (the Regulations) relating to contributions to Canadian content development (CCD) for the 2009-2010 to 2011-2012 broadcast years and with section 9(2) of the Regulations relating to the filing of complete annual returns for the 2009-2010 and 2010-2011 broadcast years.
6. The Commission notes that in Broadcasting Decision 2009-525, it renewed the broadcasting licences for CKOY-FM and CKOB-FM for a short-term period of four years, due to their non-compliance with the requirements set out in sections 2.2(5) and 2.2(10) of the Regulations, which relate to the broadcast of French-language vocal music, for the 2008-2009 broadcast year.

### **Canadian content development contributions**

7. Section 15(2) of the Regulations sets out the dollar amounts that commercial radio station licensees are required to contribute annually to eligible CCD initiatives. Licensees are also required to provide, on the CCD forms included with their annual returns, details regarding the initiatives to which the contributions are directed. As discussed below, a radio station's annual returns must be filed by no later than 30 November following the end of the previous broadcast year.
8. When documenting contributions to organizations other than FACTOR, MUSICACTION or the Community Radio Fund of Canada licensees must provide sufficient proof that a particular initiative meets the eligibility criteria set out in paragraph 108 of Broadcasting Public Notice 2006-158. Supporting documentation must also demonstrate how the funds were actually used (i.e., the name of the recipient of the contribution, the amount paid, the cheque and/or invoice number, and proof of payment, such as copies of cancelled cheques or receipts). Further, links between all supporting documentation and the payments made, as identified in the CCD form, should be clearly set out in the supporting documentation. If the above information is not provided, the Commission cannot determine whether a licensee has contributed the full amounts required under section 15(2) of the Regulations.
9. In regard to the CCD contributions for the 2009-2010 to 2011-2012 broadcast years, the licensee did not submit proof of eligibility by the 30 November deadline for the following initiatives: the Fondation du CÉGEP de Trois-Rivières and the Fondation de l'Université du Québec à Trois-Rivières initiative (for CKOB-FM), as well as the

Fondation de l'Université de Sherbrooke (for CKOY-FM). Cogeco explained that since both stations were operated by Corus in 2009-2010, it believed that Corus had filed a complete annual return, including all proof of eligibility and proof of payment. In regard to the required contributions for 2010-2011 and 2011-2012, the licensee indicated that the proof of eligibility was filed with the annual returns. However, according to Commission records, proof of eligibility was not included with the annual reports for those broadcast years.

10. The Commission notes that in 2013, the licensee filed the missing proof of eligibility for all three broadcast years. Further, Cogeco indicated that it would continue to file proof of eligibility and proof of payment with the Commission, and that it would confirm with the latter the eligibility of all other projects. Nevertheless, the Commission finds the licensee in non-compliance, for both CKOY-FM and CKOB-FM, with section 15(2) of the Regulations.

#### **Incomplete annual returns**

11. As stated in section 9(2) of the Regulations, licensees are required to file an annual return by 30 November of each year for the broadcast year ending the previous 31 August. The filing requirements, including the requirement to submit financial statements with annual returns, are set out in Broadcasting Information Bulletin 2011-795.
12. For the 2009-2010 broadcast year, Corus filed, for both CKOY-FM and CKOB-FM, financial statements that were incomplete. In regard to the missing financial statements for 2010-2011, Cogeco stated that it was not aware that financial statements had to be filed separately for each station.
13. The Commission notes that in 2013, the licensee filed, for both stations, complete financial statements for 2009-2010, as well as the missing financial statements for 2010-2011. It also noted the licensee's statement that, going forward, it would ensure that separate financial statements are included with the annual returns for each station. Nevertheless, the Commission finds the licensee in non-compliance, for both CKOY-FM and CKOB-FM, with section 9(2) of the Regulations.

#### **Regulatory measures**

14. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach for dealing with non-compliance by radio stations. Specifically, the Commission indicated that each instance of non-compliance would be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also indicated that it would consider the circumstances leading to the instances of non-compliance in question, the arguments provided by the licensee and the measures taken to rectify the situation.
15. The Commission considers that initiatives relating to the development of Canadian content and talent will not only help to develop and advance the careers of emerging

Canadian artists, but will increase the supply of high-quality Canadian music in a variety of genres and the demand for Canadian music by listeners. Accordingly, it is important that radio licensees make their required contributions.

16. Furthermore, compliance with deadlines for the submission of annual returns is important because it enables the Commission to monitor a licensee's performance and compliance with regulations and obligations. Accordingly, it considers annual returns that are incomplete and/or filed late to be a serious matter.
17. The Commission has reviewed the record for these applications and is satisfied with the licensee's explanations and the measures it has put in place to address the situations of non-compliance. Furthermore, although the 2009-2010 non-compliance took place while Corus was operating both stations, the Commission acknowledges that the instances of non-compliance in 2010-2011 and 2011-2012 occurred under Cogeco's management. However, given the circumstances surrounding the licensee's non-compliance as well as the seriousness of the non-compliance, the Commission considers that a short-term licence renewal for both CKOY-FM and CKOB-FM is appropriate.

## **Conclusion**

18. In light of all of the above, the Commission **renews** the broadcasting licences for the French-language commercial radio programming undertakings CKOY-FM Sherbrooke and CKOB-FM Trois-Rivières, Quebec, from 1 January 2014 to 31 August 2018. The terms and **conditions of licence** for each station are set out in the appendix to this decision.
19. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory requirements. The short-term renewals granted in this decision will allow for an earlier review of the licensee's compliance with its regulatory requirements.

## **Reminder**

20. The Commission reminds the licensee that it is its responsibility to submit annual returns on time. In addition, as set out in Broadcasting Information Bulletin 2011-795, it is also the licensee's responsibility to ensure that all appropriate forms and documentation are included with the submission of its annual returns. If further clarification is required, it is the licensee's responsibility to contact the Commission to obtain further direction.
21. Pursuant to section 22 of the *Broadcasting Act*, the Commission reminds the licensee that the broadcasting licence will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

## Employment equity

22. Because this licensee is subject to the *Employment Equity Act* and files reports with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

### Related documents

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2013-418, 19 August 2012
- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2013-325, 5 July 2013
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *Transfer of effective control of various commercial radio programming undertakings from Corus Entertainment Inc. to Cogeco inc.*, Broadcasting Decision CRTC 2010-942, 17 December 2010
- *Various radio programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2009-525, 27 August 2009, as amended by *Various radio programming undertakings – Licence renewals – Correction*, Broadcasting Decision CRTC 2009-525-1, 22 December 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

*\*This decision is to be appended to each licence.*

## **Appendix to Broadcasting Decision CRTC 2013-717**

### **Terms and conditions of licence for the French-language commercial radio programming undertakings CKOY-FM Sherbrooke and CKOB-FM Trois-Rivières, Quebec**

#### **Terms**

The licence will expire 31 August 2018.

#### **Conditions of licence**

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, with the exception of condition of licence 7.
2. 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, 21 April 1995, as amended from time to time, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.
3. The licensee shall devote at least 50% of the station's programs broadcast each broadcast week to programs drawn from content category 1 (Spoken Word).
4. In each broadcast week, the licensee shall broadcast at least 50 hours of local programming.
5. In each broadcast week, the licensee shall broadcast at least 24 hours and 46 minutes of spoken word programming.
6. In each broadcast week, the licensee shall broadcast at least 4 hours and 20 minutes of news programming.