



Broadcasting Decision CRTC 2015-257

PDF version

Reference: 2015-51

Ottawa, 16 June 2015

Five Amigos Broadcasting Inc.

Wallaceburg, Ontario

Application 2014-0827-9, received 26 August 2014

CKXS-FM Wallaceburg – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CKXS-FM Wallaceburg from 1 September 2015 to 31 August 2022.*

Introduction

1. Five Amigos Broadcasting Inc. (Five Amigos) filed an application to renew the broadcasting licence for the English-language commercial radio station CKXS-FM Wallaceburg, which expires 31 August 2015. The Commission did not receive any interventions regarding this application.

Non-compliance

2. Section 9(2) of the *Radio Regulations, 1986* (the Regulations) requires licensees to file an annual return by 30 November of each year for the broadcast year ending the previous 31 August. The specific filing requirements, including the requirement to submit financial statements, are set out in Broadcasting Information Bulletin 2011-795.
3. In Broadcasting Notice of Consultation 2015-51, the Commission stated that the licensee was in apparent non-compliance with section 9(2) of the Regulations relating to the filing of complete annual returns. Specifically, the licensee failed to include financial statements for the 2010-2011 and 2011-2012 broadcast years. The missing financial statements were filed in August 2012 and December 2014 respectively.
4. Five Amigos stated that it took full responsibility for the omission of the financial statements. It explained that the staff member involved had been removed from the position and was no longer with the station, adding that it had contracted a professional accounting firm to file and complete annual returns in accordance with Commission requirements.
5. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations for the 2010-2011 and 2011-2012 broadcast years.

6. Further, given that Five Amigos filed its annual returns using the calendar rather the broadcast year (1 September to 31 August), the Commission **directs** the licensee to file its financial statements for the 2009-2010, 2010-2011, 2011-2012 and 2012-2013 broadcast years within **90 days of this decision**.
7. This is the first licence term in which the licensee has been found in non-compliance. Once informed of the situation, it quickly submitted the missing financial statements.

Regulatory measures

8. 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 quantity, recurrence and seriousness of the non-compliance. The circumstances, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
9. Compliance with deadlines for the filing of complete annual returns is important because it enables the Commission to monitor a licensee's performance and compliance with regulations. Accordingly, the Commission considers the late or incomplete filing of annual returns a serious matter.
10. The Commission has examined the record for this application and is satisfied with the licensee's explanations and with the measures it has put in place to address the non-compliance. Given the circumstances surrounding the licensee's non-compliance, the Commission finds it appropriate to grant CKXS-FM Wallaceburg a full-term licence renewal.

Conclusion

11. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CKXS-FM Wallaceburg from 1 September 2015 to 31 August 2022. The **conditions of licence** are set out in the appendix to this decision.

Reminders

12. The licensee is responsible for filing complete annual returns on time. 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.
13. The licensee must fulfill all of the tangible benefits set out in the Commission's administrative letter dated 21 May 2015.

14. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Secretary General

Related documents

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2015-51, 18 February 2015
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011

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

Appendix to Broadcasting Decision CRTC 2015-257

Conditions of licence and encouragement for the English-language commercial radio programming undertaking CKXS-FM Wallaceburg

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, as well as to the **conditions** set out in the broadcasting licence for the undertaking.
2. In order to fulfill its outstanding commitments to Canadian content development (CCD) set out in the appendix to *English-language FM radio station in Wallaceburg*, Broadcasting Decision CRTC 2009-305, 26 May 2009, the licensee shall file, by 30 November of each year and in a form deemed acceptable by the Commission, all proof of payment regarding the required contribution to CCD to be made in the broadcast year ending the previous 31 August in addition to the required basic annual CCD contribution set out in section 15 of the *Radio Regulations, 1986*, as follows:
 - \$2,000 in the 2014-2015 broadcast year;
 - \$2,000 in the 2015-2016 broadcast year; and
 - by the end of the 2015-2016 broadcast year, any remaining unpaid pro-rated contribution to CCD from the partial 2009-2010 first year of operation.

At least 20% of the required contributions made in each broadcast year shall be allocated to FACTOR and/or MUSICACTION. The remainder shall be allocated to eligible CCD initiatives as described in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, as amended from time to time.

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