



Broadcasting Decision CRTC 2016-229

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Reference: 2016-48

Ottawa, 17 June 2016

Radio communautaire de Radisson
Radisson, Quebec

Application 2015-1079-3, received 8 September 2015

CIAU-FM Radisson – Licence renewal

*The Commission **renews** the broadcasting licence for the French-language community radio station CIAU-FM Radisson from 1 September 2016 to 31 August 2019. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements.*

Application

1. Radio communautaire de Radisson filed an application to renew the broadcasting licence for the French-language community radio station CIAU-FM Radisson, Quebec, which expires 31 August 2016. The Commission did not receive any interventions regarding this application.

Background

2. When it last renewed the broadcasting licence for CIAU-FM in 2012,¹ the Commission determined that the licensee was in non-compliance with section 9(2) of the *Radio Regulations, 1986* (the Regulations) regarding the filing of annual returns for the 2003-2004 to 2009-2010 broadcast years. It therefore renewed the station's broadcasting licence for a short-term period, until 31 August 2016.

Non-compliance

3. Section 9(2) of 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 file financial statements, are set out in Broadcasting Information Bulletin 2011-795.
4. In Broadcasting Notice of Consultation 2016-48, the Commission stated that the licensee was in apparent non-compliance with requirements relating to the filing of annual returns. Specifically, the licensee did not file the annual return for the

¹ See Broadcasting Decision 2012-704.

2011-2012 broadcast year and did not attach the financial statements to the annual returns for the 2012-2013 and 2013-2014 broadcast years. The licensee filed the missing annual return and financial statements for the 2013-2014 broadcast year in October 2015, but still has not filed the financial statements for the 2012-2013 broadcast year.

5. The licensee explained that the non-compliance was due to the fact that the previous accountant left the station and that a transitional period ensued until a new accountant was hired. The new accountant has had discussions with Commission staff to ensure future compliance. The licensee was of the view that a shortened licence renewal or any other sanction would be inappropriate since it had taken immediate actions to rectify the situation.
6. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations for the 2011-2012 through 2013-2014 broadcast years.

Regulatory measures

7. 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 be considered.
8. 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.
9. As set out in Broadcasting Regulatory Policy 2014-554, for stations that are in or appear to be in non-compliance, the following measures may be applied on a case-by-case basis depending on the nature of the non-compliance:
 - renew the licence for a short term;
 - impose additional conditions of licence;
 - call the licensee to a public hearing to respond to and discuss apparent non-compliance;
 - following a public hearing, issue a mandatory order requiring the licensee to comply with regulatory requirements (such orders are made orders of the Federal Court and can be enforced through contempt of court proceedings);
 - suspend the licence;
 - not renew the licence; and
 - revoke the licence.

10. In that same regulatory policy, the Commission introduced further measures to address the potential harm that could be caused to the broadcasting system by non-compliance with various regulations and conditions of licence. For serious cases of non-compliance, the Commission considered it appropriate to require stations in non-compliance to announce that finding on air, an approach similar to that currently used by the Canadian Broadcast Standards Council.
11. The Commission has examined the public record for this application and notes the licensee's willingness to ensure the station's compliance with its regulatory requirements. However, given the seriousness of the non-compliance and the fact that this is the second consecutive licence term in which CIAU-FM has been found in non-compliance with its requirements regarding the filing of annual returns, the Commission finds it appropriate to renew CIAU-FM's licence for a short-term period of three years.
12. Moreover, considering the serious and repeated nature of CIAU-FM's non-compliance, the Commission finds it appropriate to require Radio communautaire de Radisson to broadcast an announcement regarding its non-compliance three times a day, reasonably scheduled between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m. for five consecutive days within the 14-day period immediately following the publication of this decision. To confirm compliance with this requirement, the licensee must provide the Commission with the audio recordings for the broadcast days during which the announcement was broadcast and file the completed and signed *Attestation as to the broadcast of the non-compliance announcement on CIAU-FM Radisson* set out in Appendix 2 to this decision by no later than 14 days following the final broadcast of the announcement. A **condition of licence** to that effect is set out in Appendix 1 to this decision.
13. Should the licensee again breach its regulatory requirements, the Commission may consider recourse to additional measures as noted above, including suspension, non-renewal or revocation of the broadcasting licence for the station under sections 9 and 24 of the *Broadcasting Act* (the Act).

Conclusion

14. In light of all of the above, the Commission **renews** the broadcasting licence for the French-language community radio programming undertaking CIAU-FM Radisson from 1 September 2016 to 31 August 2019. The **conditions of licence** are set out in Appendix 1 to this decision. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements.

Reminders

15. Licensees are responsible for filing complete annual returns on time, no later than 30 November of each year for the broadcast year ending the previous 31 August. The annual return must cover the broadcast year (that is, the period beginning on 1 September of a given year and ending on 31 August of the following year),

regardless of the end date of the licensee's fiscal or taxation year. In accordance with the requirements set out in Broadcasting Information Bulletin 2011-795, the financial statements must be included with the annual return. As set out in that information bulletin, licensees are responsible for ensuring that all appropriate forms and documentation are included with their annual returns and for contacting the Commission if further clarification is required.

16. Pursuant to section 22 of the 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.

17. Pursuant to section 16 of the Regulations, all licensees of campus, community and Native radio stations must participate in the National Public Alerting System.

Secretary General

Related documents

- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2016-48, 9 February 2016
- *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
- *Various campus and community radio programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2012-704, 21 December 2012
- *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 1 to Broadcasting Decision CRTC 2016-229

Conditions of licence, expectation and encouragement for the French-language community radio programming undertaking CIAU-FM Radisson, Quebec

Conditions of licence

1. The licensee shall adhere to the conditions of licence set out in *Standard conditions of licence for campus and community radio stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. a) The licensee shall broadcast the following announcement three times a day, reasonably scheduled between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m., for five consecutive days within the 14-day period immediately following the publication of *CIAU-FM Radisson - Licence renewal*, Broadcasting Decision CRTC 2016-229, 17 June 2016 (Broadcasting Decision 2016-229):
 - Radio frequencies are a limited public resource. Holding a broadcasting licence is a privilege, and broadcasters are required to abide by a number of regulations and conditions of licence in order to operate a radio station. In Broadcasting Decision 2016-229, the CRTC determined that this station is in non-compliance with the *Radio Regulations, 1986*. The instances of non-compliance regarding the filing of annual returns with the CRTC occurred during the 2011-2012, 2012-2013 and 2013-2014 broadcast years and are a recurring issue. CIAU-FM has put measures in place to ensure that the non-compliances in question do not recur.
- b) The licensee shall provide to the Commission the audio recordings for the broadcast days during which the announcement was broadcast and file the completed and signed *Attestation as to the broadcast of the non-compliance announcement on CIAU-FM Radisson* set out in Appendix 2 to Broadcasting Decision 2016-229, by no later than 14 days following the final broadcast of the announcement.

Expectation

As set out in *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010, the Commission expects all community and campus licensees to file yearly updates on the composition of their boards of directors. These annual updates can be submitted at the time of submission of annual returns, following annual board of directors' elections or at any other time. As noted in Appendix 3 to that regulatory policy, licensees may submit such documentation via the Commission's website.

Encouragement

The Commission considers that community radio stations should be particularly sensitive to employment equity issues in order to reflect fully the communities they serve. It encourages the licensee to consider these issues in its hiring practices and in all other aspects of its management of human resources.

Appendix 2 to Broadcasting Decision CRTC 2016-229

Attestation as to the broadcast of the non-compliance announcement on CIAU-FM Radisson

With respect to the requirements set out in condition of licence 2 in Appendix 1 to *CIAU-FM Radisson – Licence renewal*, Broadcasting Decision CRTC 2016-229, 17 June 2016 (Broadcasting Decision 2016-229), I,

_____ (NAME) on behalf of _____ (LICENSEE), certify that the announcement regarding CIAU-FM Radisson’s non-compliance with the *Radio Regulations, 1986* was duly broadcast three times a day, reasonably scheduled between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m. for five consecutive days within the 14-day period immediately following the publication of Broadcasting Decision 2016-229, as follows:

First date of broadcast:		Times	1:	2:	3:
Second date of broadcast:		Times	1:	2:	3:
Third date of broadcast:		Times	1:	2:	3:
Fourth date of broadcast:		Times	1:	2:	3:
Fifth date of broadcast:		Times	1:	2:	3:

Signature

Date