



## Broadcasting Decision CRTC 2016-301

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Reference: 2016-48

Ottawa, 29 July 2016

**Group CHCR Inc.**  
Montréal, Quebec

*Application 2015-0929-1, received 21 August 2015*

### **CKDG-FM Montréal – Licence renewal**

*The Commission **renews** the broadcasting licence for the commercial ethnic radio station CKDG-FM Montréal from 1 September 2016 to 31 August 2021. This shortened licence term will allow for an earlier review of the licensee's compliance with regulatory requirements.*

#### **Application**

1. Group CHCR Inc. (CHCR) filed an application to renew the broadcasting licence for the commercial ethnic radio station CKDG-FM Montréal, Quebec, which expires 31 August 2016.

#### **Interventions**

2. The Commission received interventions in support of this application as well as one intervention in opposition from 9015-2018 Québec inc., to which the applicant replied. The public record for this application can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the application number provided above.
3. 9015-2018 Québec inc., licensee of CHOU Montréal, opposed the licence renewal and requested that the Commission revoke the licence given that this is the third consecutive licence term in which the licensee is in non-compliance.
4. In its reply, CHCR provided explanations for the instances of non-compliance and argued that it has put in place measures to rectify the situation. It highlighted that all of the other interveners are listeners who strongly support the station and programming provided. The licensee also pointed out that it has faced significant financial challenges which has led to the sale of its other station CKIN-FM Montréal.

#### **Background**

5. In Broadcasting Decision 2010-428, the Commission renewed CKDG-FM's broadcasting licence for a short term due to non-compliance with its condition of licence relating to contributions to Canadian talent development (CTD).

6. Subsequently, in Broadcasting Decision 2013-691, the Commission again renewed CKDG-FM's broadcasting licence for a short term due to its non-compliance with section 9(2) of the *Radio Regulations, 1986* (the Regulations) regarding the provision of annual returns. In addition, the licensee did not fulfil its commitment to make outstanding CTD contributions set out in Broadcasting Decision 2010-428.

### **Non-compliance**

7. In Broadcasting Notice of Consultation 2016-48, the Commission stated that the licensee was in apparent non-compliance with certain regulatory requirements and conditions of licence pertaining to the broadcast of Canadian musical selections and to the number of cultural groups it must serve.
8. By condition of licence, CHCR is required to devote a minimum of 10% of the musical selections broadcast during ethnic programming periods each broadcast week to Canadian selections. According to Commission analysis, 0.76% were Canadian musical selections during the week monitored.
9. Pursuant to section 2.2(8) of the Regulations, the licensee is also required to devote 35% of its content category 2 (Popular Music) selections over the broadcast week to Canadian selections. In the broadcast week monitored, the licensee only broadcast 24.1%.
10. In addition, the licensee is required by condition of licence to serve a minimum of eight cultural groups in a minimum of six languages. During the week monitored, the Commission found that the licensee served only six groups.
11. The licensee explained that the station has limited financial resources and had difficulties keeping adequate monitoring materials. It also misinterpreted its condition of licence in regards to the number of cultural groups it must serve by including anglophones and francophones from Quebec.
12. In light of the above, the Commission finds the licensee in non-compliance with section 2.2(8) of the Regulations and with its conditions of licence relating to Canadian musical content during ethnic programming periods and to the minimum number of cultural groups served by the station.

### **Regulatory measures**

13. 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.

14. 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<sup>1</sup> requiring the licensee to comply with regulatory requirements;
  - suspend the licence;
  - not renew the licence; and
  - revoke the licence.
15. In that same 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.
16. In this case, the licensee indicated that it has taken the following corrective measures to ensure compliance:
- hired a new manager;
  - designated an employee responsible for compliance;
  - increased employee training;
  - sold its other station CKIN-FM Montréal, allowing it to put more resources into CKDG-FM; and
  - implemented a secure program of recordkeeping of logs and music lists;
17. Finally, the licensee stated that it would voluntarily contribute an additional \$2,000 to FACTOR and \$2,000 to MUSICACTION over the next licence term, as acknowledgement of the non-compliance and to show that it is accountable and committed to promoting homegrown talent.
18. The Commission examined the public record for this application as well as the licensee's prior efforts to bring CKDG-FM into compliance with the requirements related to annual returns and CCD contributions. The Commission's records indicate that the licensee has been operating in full compliance with the requirements related to CCD and annual returns over the current licence term. In regard to the current instance of non-compliance, which relates to programming, the licensee recognized

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<sup>1</sup> Such orders are made orders of the Federal Court and can be enforced through contempt of court proceedings.

the seriousness of the non-compliance and has voluntarily proposed to make additional CCD contributions totalling \$4,000 over the next licence term, despite its limited financial resources.

19. Given the seriousness of the non-compliance and the fact that this is the third consecutive licence term in which CKDG-FM has been found in non-compliance, the Commission considers it appropriate to renew CKDG-FM's licence for a short term of five years. The Commission is also imposing a condition of licence requiring the licensee to make the additional CCD contributions to FACTOR and MUSICACTION it proposed. A **condition of licence** to that effect is set out in the appendix to this decision. This will serve as compensation for the loss to the broadcasting system as a result of the non-compliance with Canadian content requirements.

## Conclusion

20. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial ethnic radio programming undertaking CKDG-FM Montréal from 1 September 2016 to 31 August 2021. The **conditions of licence** are set out in the appendix to this decision.
21. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory obligations. The shortened licence term granted in this decision will allow for an earlier review of the licensee's compliance with the regulatory requirements.

## Reminder

22. 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 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
- *CKDG-FM and CKIN-FM Montréal – Licence renewals*, Broadcasting Decision CRTC 2013-691, 13 December 2013
- *CKDG-FM Montréal – Licence renewal*, Broadcasting Decision CRTC 2010-428, 30 June 2010

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

## **Appendix to Broadcasting Decision CRTC 2016-301**

### **Terms, conditions of licence, expectation and encouragement for the commercial ethnic radio programming undertaking CKDG-FM Montréal, Quebec**

#### **Terms**

The licence will expire 31 August 2021.

#### **Conditions of licence**

1. The licensee shall adhere to the conditions set out in the broadcasting licence for the undertaking as well as to the conditions set out in *Conditions of licence for AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, except conditions of licence 7 and 9.
2. The station shall be operated within the specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995.
3. The licensee shall devote a minimum of 60% of the programming broadcast during each broadcast week to ethnic programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.
4. The licensee shall devote a minimum of 50% of the programming broadcast during each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.
5. The licensee shall broadcast, in each broadcast week, programming directed to a minimum of eight cultural groups in a minimum of six languages.
6. The licensee shall ensure that at least 10% of the musical selections broadcast during ethnic programming periods during each broadcast week are Canadian selections.
7. The licensee shall, by no later than 31 August 2021, make a \$4,000 contribution to Canadian content development (CCD) that is over and above the CCD contributions currently required pursuant to the *Radio Regulations, 1986* or by condition of licence. This contribution shall be divided equally between FACTOR and MUSICACTION.

In addition, the licensee shall file, by 30 November of each year and in a form deemed acceptable by the Commission, the related proof of payment regarding this additional contribution to CCD.

#### **Expectation**

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

**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 the management of its human resources.