



Broadcasting Decision CRTC 2018-243

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Reference: Part 1 licence renewal application posted on 4 April 2018

Ottawa, 13 July 2018

CKDU-FM Society
Halifax, Nova Scotia

Public record for this application: 2017-0570-9

CKDU-FM Halifax – Licence renewal

*The Commission **renews** the broadcasting licence for the English-language campus FM radio station CKDU-FM Halifax from 1 September 2018 to 31 August 2023. This short-term licence renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.*

Application

1. CKDU-FM Society filed an application to renew the broadcasting licence for the English-language campus FM radio station CKDU-FM Halifax, Nova Scotia, which expires 31 August 2018. The Commission received an intervention supporting this application from the National Campus and Community Radio Association.

Background

2. In Broadcasting Decision 2013-454, the Commission renewed CKDU-FM's licence on a short-term basis. The short-term licence renewal was due to the licensee's non-compliance with respect to the filing of annual returns for the 2005-2006, 2006-2007 and 2007-2008 broadcast years.

Non-compliance

Annual returns

3. Section 9(2) of the *Radio Regulations, 1986* (the Regulations) requires licensees to file their annual returns, including financial statements, by 30 November of a given year for the broadcast year ending the previous 31 August. The specific filing requirements are set out in Broadcasting Information Bulletin 2011-795.
4. According to Commission records, the licensee's annual returns for the 2015-2016 broadcast year were filed 11 months and two weeks after the 30 November deadline.
5. The licensee submitted that CKDU-FM had undergone staff changes and that the former station manager had indicated that the 2015-2016 annual returns had been

filed successfully. It further indicated that a new compliance officer will meet regularly with the Board of Directors and the station manager to ensure that annual returns are properly filed.

6. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations for the 2015-2016 broadcast year.

Implementation of a public alerting system

7. Section 16(3) of the Regulations requires all licensees of campus, community and Indigenous stations to implement a public alerting system by 31 March 2016.
8. The licensee explained that the public alerting system was originally implemented by a former technical director by the 31 March 2016 deadline. However, the system was disconnected after experiencing interference issues that were suspected to be related to the implementation of the system.
9. The licensee stated that it reinstalled CKDU-FM's public alerting system on 10 November 2017, and it is now operational. The licensee added that its compliance officer will collect monthly updates on the public alerting system and will monitor the progress of other regulatory obligations.
10. In light of the above, the Commission finds the licensee in non-compliance with section 16(3) of the Regulations.

Regulatory measures

11. 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 leading to the non-compliance, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
12. In this case, the Commission notes that the licensee has acknowledged the non-compliance and demonstrated an understanding of its regulatory obligations. The Commission is satisfied with the corrective actions taken by the licensee. The Commission notes, however, that this is the second consecutive licence term in which the licensee has been in non-compliance with respect to the submission of annual returns.
13. Accordingly, in light of the severity and recurring nature of the non-compliance, the Commission considers it appropriate to grant the station a short-term renewal of five years. This short-term licence renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.

Conclusion

14. In light of all the above, the Commission **renews** the broadcasting licence for the English-language campus FM radio programming undertaking CKDU-FM Halifax from 1 September 2018 to 31 August 2023. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminders

15. Licensees are responsible for filing complete annual returns on time, including financial statements. 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.
16. The full participation of the broadcasting industry is important for the National Public Alerting System (NPAS) to be effective in safeguarding and warning Canadians. As such, the Commission considers that timely compliance must be enforced, and station compliance will be closely monitored. The Commission could choose to apply other regulatory measures, such as those set out in Broadcasting Information Bulletin 2014-608, should the requirements with respect to the NPAS not be fulfilled.
17. Should the licensee continue to be in non-compliance with its regulatory requirements, the Commission may consider recourse to additional measures as part of the next licence renewal process, including the issuance of a mandatory order or the revocation or non-renewal of the licence.
18. Pursuant to section 22 of the *Broadcasting Act*, the broadcasting licence renewed in this decision will cease to have any force or effect should the broadcasting certificate issued by the Department of Industry lapse.

Secretary General

Related documents

- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Campus and community radio programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-454, 29 August 2013
- *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 2018-243

Terms, conditions of licence, expectations and encouragement for the English-language campus FM radio programming undertaking CKDU-FM Halifax, Nova Scotia

Terms

The licence will expire 31 August 2023.

Conditions of licence

1. The licensee shall adhere to the conditions 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 the conditions set out in the licence for the undertaking.
2. The licensee shall retain full control over all decisions concerning the management and programming of this station and ensure that representatives of the student body, faculty, alumni or administration representatives of the university or college with which the station is associated, considered together, form the majority of the board of directors. In addition, in accordance with the requirements of the *Direction to the CRTC (Ineligibility of non-Canadians)* P.C. 1997-486, 8 April 1997, as amended by P.C. 1998-1268, 15 July 1998, the chief executive officer and not less than 80% of the members of the board of directors must be Canadians ordinarily resident in Canada.

Expectations

Ownership information

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 board 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 information through the Commission's website.

Cultural diversity

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

Encouragement

Employment equity

The Commission considers that community and campus radio stations should be particularly sensitive to employment equity issues in order to fully reflect the

communities they serve. The Commission encourages the licensee to consider these issues in its hiring practices and in all other aspects of its management of human resources.