



## Broadcasting Decision CRTC 2021-61

PDF version

References: Part 1 licence renewal application and Part 1 application posted on 30 October 2020

Ottawa, 15 February 2021

**Acadia Broadcasting Limited**  
Moncton, New Brunswick

*Public record for these applications: 2019-0888-1 and 2019-0894-8*

### **CKNI-FM Moncton – Licence renewal and licence amendment**

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CKNI-FM Moncton from 1 March 2021 to 31 August 2026. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory obligations.*

*In addition, the Commission **approves** Acadia Broadcasting Limited's application to amend CKNI-FM's condition of licence relating to over-and-above Canadian content development contributions to reflect that it is now required to make a contribution in this regard only for the 2020-2021 broadcast year.*

### **Applications**

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act*, to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the *Broadcasting Act*, as well as to amend those conditions on application of the licensee.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-194, which listed the radio stations for which the broadcasting licences would expire 31 August 2020 and that therefore needed to be renewed to continue their operations. In that notice of consultation, the Commission requested that the licensees of those stations submit renewal applications for their broadcasting licences.

3. In response, Acadia Broadcasting Limited (Acadia) filed an application (2019 0888-1) to renew the broadcasting licence for the English-language commercial radio station CKNI-FM Moncton, New Brunswick, which expires 28 February 2021.<sup>1</sup> The Commission did not receive any interventions in regard to this application.
4. In addition, Acadia filed an application (2019-0894-8) to amend CKNI-FM's condition of licence relating to over-and-above Canadian content development (CCD) contributions to reflect that it has one broadcast year remaining to make such contributions. The Commission did not receive any interventions in regard to this application.

### **Non-compliance**

5. Section 10(1)(i) of the *Broadcasting Act* authorizes the Commission, in furtherance of its objects, to make regulations requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.
6. Pursuant to this authority, the Commission made section 9(3)(b) of the *Radio Regulations, 1986* (the Regulations), which sets out the requirements regarding the information on musical selections that licensees must include in their lists of musical selections for any period specified by the Commission.
7. During its assessment of the programming aired during the 28 October 2018 to 3 November 2018 broadcast week, the Commission identified 55 musical selections that were not included in the list of musical selections filed with the Commission. In addition, musical selections included in the list were mislabeled.
8. In its explanation, the licensee indicated that the station's software did not track the musical selections aired during the Canadian syndicated program "The Weekend Blowout." It added that this software did not identify the airtime for each musical selection. In recognition of these deficiencies, Acadia provided the Commission with the cue sheet from the syndicated program provider.
9. To ensure its future compliance, the licensee indicated that the program director will ensure that all musical selections are included in the list of musical selections. Further, CKNI-FM implemented new software as of 1 June 2019 that includes the ability to indicate the airtime of each musical selection.
10. In light of the above, the Commission finds Acadia in non-compliance with section 9(3)(b) of the Regulations.

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<sup>1</sup> The original licence expiry date for the station was 31 August 2020. The licence was administratively renewed from 1 September 2020 until 28 February 2021 as a result of Broadcasting Decision 2020-284.

## 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 number, recurrence and seriousness of the instances of 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. The Commission recognizes that the licensee acknowledged the apparent non-compliance and demonstrated an understanding of its regulatory obligations. Further, the licensee provided the required reporting information in an ancillary format. The Commission acknowledges that the licensee has taken appropriate action to address the issues and ensure they will not be repeated. Nevertheless, the Commission finds it appropriate, given the seriousness of this instance of non-compliance, to renew CKNI-FM's broadcasting licence for a short-term period. This will allow for an earlier review of the licensee's compliance with its regulatory requirements.

## Licence amendment

13. Sections 3(1)(e) and (s) of the *Broadcasting Act* declare that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming and that private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming. Consistent with these objectives and pursuant to its authority under section 9(1) of the *Broadcasting Act*, the Commission imposed a condition of licence regarding CCD contributions.
14. In Broadcasting Decision 2014-116, the Commission approved an application by Acadia for authority to acquire from Rogers Broadcasting Limited the assets of CKNI-FM. As part of that transaction, Acadia committed to devote, by condition of licence,<sup>2</sup> in addition to its basic annual contribution to CCD set out in section 15 of the Regulations, an annual contribution of \$8,572 (\$60,004 over seven consecutive broadcast years) to the promotion and development of Canadian content. The licensee stated that the purpose of the requested amendment is to effect a normal end of its over-and-above CCD commitment by specifying that this commitment would be fulfilled on 31 August 2021, the end of the 2020-2021 broadcast year.

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<sup>2</sup> See condition of licence 2 set out in the appendix to Broadcasting Decision 2014-116.

15. The Commission's general practice is to require over-and-above CCD contributions to be paid over the first seven consecutive broadcast years of operations only. The licensee has been subject to this over-and-above CCD contribution condition of licence since it acquired CKNI-FM and launched it in its new format in 2014.<sup>3</sup> As a result, it will have fulfilled the commitment set out in that condition of licence by 31 August 2021.
16. In light of the above, the Commission **approves** Acadia's application to amend CKNI-FM's condition of licence relating to over-and-above CCD contributions to reflect the end of the licensee's commitment in this regard at the end of the 2020-2021 broadcast year. The amended **condition of licence** is set out in the appendix to this decision.

## Conclusion

17. In light of all the above, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CKNI-FM Moncton, New Brunswick, from 1 March 2021 to 31 August 2026. The **conditions of licence** are set out in the appendix to this decision.

## Reminders

### Radio monitoring materials

18. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. The submission of complete and accurate radio monitoring materials enables the Commission to conduct an analysis of a station's programming to verify compliance with regulatory requirements and conditions of licence. The retention of complete and accurate radio monitoring materials also makes it possible for the Commission to investigate a station's programming in the case of complaints. As such, any licensee that does not file requested material in a timely manner, files material that is incomplete, or does not file such material at all, affects the ability of the Commission to adequately perform its duty to independently confirm the licensee's adherence to regulatory and licence requirements. These filings also become important indicators of whether the licensee has the willingness, ability and knowledge necessary to bring itself into compliance and maintain such compliance.

### Force and effect of broadcasting licences

19. 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.

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<sup>3</sup> In Broadcasting Decision 2014-116, the Commission approved Acadia's request to move CKNI-FM from a News/Talk to a music format. CKNI-FM launched its new music format in August 2014.

## **Employment equity**

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

Secretary General

## **Related documents**

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-284, 21 August 2020
- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-194, 3 June 2019
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *CKNI-FM Moncton – Acquisition of assets and licence amendments*, Broadcasting Decision CRTC 2014-116, 14 March 2014

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

## **Appendix to Broadcasting Decision CRTC 2021-61**

### **Terms, conditions of licence and expectation for the English-language commercial radio programming undertaking CKNI-FM Moncton, New Brunswick**

#### **Terms**

The licence will expire 31 August 2026.

#### **Conditions of licence**

1. The licensee shall adhere to the conditions set out in *Conditions of licence for 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. To fulfill its outstanding commitments to Canadian content development (CCD) set out in the appendix to *CKNI-FM Moncton – Acquisition of assets and licence amendments*, Broadcasting Decision CRTC 2014-116, 14 March 2014, the licensee shall, in addition to the basic annual contribution to CCD set out in section 15 of the *Radio Regulations, 1986*, make a contribution of \$8,572 to the promotion and development of Canadian content by no later than 31 August 2021 (i.e., the end of the 2020-2021 broadcast year). Of this amount, not less than 20% shall be devoted to FACTOR or Musicaction. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

#### **Expectation**

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