



## Broadcasting Decision CRTC 2005-174

Ottawa, 21 April 2005

**CHUM Limited**  
Kingston, Ontario

*Application 2004-0678-7*  
*Broadcasting Public Notice CRTC 2005-11*  
*3 February 2005*

### **CKLC Kingston – Licence renewal**

*The Commission renews the broadcasting licence for the radio station CKLC Kingston, from 1 September 2005 to 31 August 2009. This short-term renewal will permit the Commission to review, at an early date, the licensee's compliance with the provisions of the Radio Regulations, 1986.*

### **The application**

1. The Commission received an application by CHUM Limited (CHUM) to renew the broadcasting licence for the commercial radio programming undertaking CKLC Kingston. The licence expires on 31 August 2005.

### **Background**

2. In *CKLC Kingston – Licence amendment*, Broadcasting Decision CRTC 2003-70, 25 February 2003, the Commission approved an application to amend the broadcasting licence for CKLC Kingston in order to add the following condition of licence:

The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986*, in any broadcast week where at least 90% of musical selections from content category 2 that it broadcasts are selections released before 1 January 1981:

- in that broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety; and
- between 6 a.m. and 6 p.m., in the period beginning on Monday of that week and ending on Friday of the same broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

The licensee will also be responsible for specifying, on the music lists it provides to the Commission, the year of release for all musical selections it broadcasts.

For purposes of this condition, the terms “broadcast week”, “content category” and “musical selection” shall have the meaning set out in section 2 of the *Radio Regulations, 1986*.

### **Non-compliance**

3. On 14 May 2003, the Commission asked the licensee to provide it with logger tapes and other material relating to the programming broadcast by CKLC during the week of 4 to 10 May 2003.
4. By letter dated 29 May 2003, the licensee provided the Commission with the material requested.
5. After reviewing the logger tapes and the playlists for the week of 4 to 10 May 2003, the Commission determined that the licensee had devoted only 79.2% of the selections aired during that week to selections that were released before 1 January 1981. Consequently, because it had not achieved the 90% threshold, CKLC could not avail itself of the flexibility to broadcast a lower level of Canadian musical selections from content category 2. As a result, the Commission’s analysis for the week of 4 to 10 May 2003 was based on the 35% Canadian content requirements set out in the *Radio Regulations 1986*, (the Regulations).
6. Based on its review of the 7 May 2003 logger tapes and the playlists for the week of 4 to 10 May 2003, the Commission’s analysis revealed that only 32.1% of all category 2 selections broadcast over the broadcast week, and only 31.3% of the category 2 musical selections broadcast by the licensee between 6:00 a.m. and 6:00 p.m., Monday through Friday, were Canadian musical selections. These findings constitute infractions of sections 2.2(8) and 2.2(9) of the Regulations, which stipulate that:
  - (8) Except as otherwise provided under a licensee’s condition of licence that refers expressly to this subsection and subject to subsection (6), an A.M. or F.M. licensee licensed to operate a commercial station, community station or campus station shall, in a broadcast week, devote 35% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.
  - (9) Except as otherwise provided under a licensee’s condition of licence, and subject to subsection (6), an A.M. or F.M. licensee licensed to operate a commercial station shall, between 6:00 a.m. and 6:00 p.m., in any period beginning on Monday of a week and ending on Friday of the same week, devote 35% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.
7. On 5 November 2003, the Commission notified the licensee in writing of its apparent non-compliance with sections 2.2(8) and 2.2(9) of the Regulations.

8. In a letter to the Commission dated 18 November 2003, the licensee acknowledged its non-compliance with sections 2.2(8) and 2.2(9) of the Regulations. It also indicated that CKLC was now operating in full compliance with the requirements of the Regulations and its conditions of licence.

### **Intervention**

9. The Commission received one intervention in support of this application.

### **Commission's analysis and determination**

10. The Commission notes that the licensee has confirmed that it has already taken the measures required to remedy its non-compliance with sections 2.2(8) and 2.2(9) of the Regulations. The Commission reminds the licensee that it must comply at all times with the provisions of the Regulations.
11. Based on its review of this licence renewal application and the licensee's past performance, and given that this is the first such infraction by the licensee, and that the licensee has confirmed that it has already taken the measures required to remedy its non-compliance with respect to the Canadian content requirements, the Commission **renews** the broadcasting licence for the radio programming undertaking CKLC Kingston, from 1 September 2005 to 31 August 2009. This term will permit the Commission to review, at an early date, the licensee's compliance with the Regulations.
12. The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, and to the following **condition of licence**:

The licensee shall, as an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986*, in any broadcast week where at least 90% of musical selections from content category 2 that it broadcasts are selections released before 1 January 1981:

- in that broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety; and
- between 6 a.m. and 6 p.m., in the period beginning on Monday of that week and ending on Friday of the same broadcast week, devote 30% or more of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

The licensee will also be responsible for specifying, on the music lists it provides to the Commission, the year of release for all musical selections it broadcasts.

For the purposes of this condition, the terms “broadcast week”, “content category” and “musical selection” shall have the meaning set out in section 2 of the *Radio Regulations, 1986*.

### **Employment equity**

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

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*