



## Broadcasting Decision CRTC 2007-121

Ottawa, 27 April 2007

### **Aboriginal Voices Radio Inc.**

Toronto, Ontario; Vancouver, British Columbia; Calgary, Alberta; and Ottawa, Ontario

*Applications 2006-0244-2, 2006-0872-1, 2006-0873-9 and 2006-0874-7*

*Public Hearing at Regina, Saskatchewan*

*30 October 2006*

### **CKAV-FM Toronto, CKAV-FM-2 Vancouver, CKAV-FM-3 Calgary and CKAV-FM-9 Ottawa - Licence renewals**

*In this decision, the Commission **renews** the broadcasting licences for the Native Type B radio programming undertakings CKAV-FM Toronto, CKAV-FM-2 Vancouver, CKAV-FM-3 Calgary and CKAV-FM-9 Ottawa, from 1 May 2007 to 31 August 2010. The Commission's decision to impose a short-term renewal period will allow it to monitor the programming of each station in the short term, in order to ensure the licensee's compliance with its conditions of licence as well as with the filing of logger tapes and annual returns.*

### **Introduction**

1. The Commission received applications by Aboriginal Voices Radio Inc. (AVR) to renew the broadcasting licences for the Native Type B radio programming undertakings CKAV-FM Toronto, CKAV-FM-2 Vancouver, CKAV-FM-3 Calgary and CKAV-FM-9 Ottawa. The current licences expire on 30 April 2007.<sup>1</sup>
2. In Broadcasting Notice of Public Hearing CRTC 2006-9, 31 August 2006, the Commission noted the apparent non-compliance of the licensee, for all of the above-mentioned stations, with the condition of licence relating to the required minimum percentage of spoken word programming, and, for the Toronto station only, with the *Radio Regulations, 1986* (the Regulations) as they relate to the filing of complete logger tapes. Subsequently, in Broadcasting Notice of Public Hearing CRTC 2006-9-3, 16 October 2006, the Commission noted, for the Toronto station only, the apparent non-compliance with the Regulations as they relate to the filing of annual returns.

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<sup>1</sup> In *Administrative renewal*, Broadcasting Decision CRTC 2006-208, 2 June 2006, the Commission renewed administratively the licence for the undertaking serving Toronto, from 1 September 2006 to 31 March 2007. In *Administrative renewals*, Broadcasting Decision CRTC 2006-335, 8 August 2006, the Commission renewed administratively the licences for the undertakings serving Vancouver, Calgary and Ottawa, from 1 September 2006 to 31 March 2007. In *Administrative renewals*, Broadcasting Decision CRTC 2007-103, 30 March 2007, the Commission renewed administratively the licences for the four above-mentioned undertakings, from 1 April 2007 to 30 April 2007.

3. The Commission did not receive any interventions in connection with these applications.

## **Commission's analysis and determinations**

### **Non-compliance issues**

#### Spoken word programming

4. AVR's licences for the above-mentioned undertakings are currently subject to a condition of licence requiring at least 25% of all programming broadcast during each broadcast week to be spoken word programming. In its analysis of AVR's renewal applications, the Commission monitored the programming of CKAV-FM. Although it was initially determined that AVR may have been out of compliance with the above-mentioned condition of licence, the Commission could not substantiate this determination with total certainty. This was due to difficulties experienced by the Commission in evaluating AVR's spoken word programming, as well as to the ambiguous wording of the condition of licence. Specifically, spoken word programming, as defined in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, includes news and public affairs programming as well as all other programming that does not fall into any other content category. Under such a broad definition, spoken word programming would therefore include short spoken word segments such as song intros/outros, surveillance information and impromptu, casual or spontaneous talk by announcers during music-flow programming or contests.
5. In order to resolve the ambiguity relating to the amount of spoken word programming that the licensee is required to broadcast on the above-mentioned undertakings, the Commission considers it appropriate to modify the existing condition of licence, taking into account AVR's funding constraints as well as the desired programming direction in which both AVR and the Commission expect these undertakings to follow. Moreover, the Commission considers it appropriate, for this condition of licence, to indicate that AVR is required to broadcast "structured enriched spoken word programming," as well as to provide a definition of this type of spoken word programming.

#### Filing of complete logger tapes

6. In the analysis of AVR's renewal application for CKAV-FM, the Commission noted apparent non-compliance with sections 8(5) and 8(6) of the Regulations as they pertain to the filing of complete logger tapes. AVR acknowledged that the logs sent to the Commission were deficient and assured the Commission that it is now using an advanced radio logging system incorporating off-site radio transmission logging as well as on-site software. The Commission notes AVR's admitted non-compliance regarding the filing of complete logger tapes and the measures that it has taken to address the situation, and reminds the licensee that it must adhere to the Regulations respecting the filing of logger tapes.

#### Filing of annual returns

7. In the case of CKAV-FM only, the Commission noted apparent non-compliance with section 9(2) of the Regulations as they pertain to the timely filing of annual returns. AVR submitted that this non-compliance was due to the presence of a new management team, and that it would file its annual returns in a timely fashion in the future. The Commission notes AVR's admitted non-compliance regarding the filing of annual returns and the measures that it has taken to address the situation, and reminds the licensee that it must adhere to the Regulations respecting the filing of annual returns.

#### **Other matters**

##### Local programming

8. The Commission notes the licensee's plans to roll out a national network serving an urban Aboriginal population. However, the Commission has insisted on numerous occasions that AVR contemplate local programming in its offerings. AVR ultimately agreed to standardize its local programming commitments across its entire network and to accept a condition of licence that, within twelve months of the renewal date for its existing stations, 25% of the programming broadcast during the broadcast week would be devoted to local programming. The licensee further agreed to roll out local news services within twelve months of the renewal date for its existing stations. AVR indicated that it would advise the Commission once these commitments are met.
9. Further to the filing of documents at the public hearing, the Commission considers that the licensee would be able to devote the necessary resources to the development of local programming initiatives in the six markets outside Toronto for which it is currently licensed. The Commission therefore considers it appropriate to impose conditions of licence requiring AVR, within twelve months of the date of this decision, to devote a minimum of 25% of its weekly broadcast schedule to the broadcast of local programming and to roll out local news services. The Commission also requires AVR to inform the Commission as to when these commitments have been met.

##### Language of broadcast for spoken word programming

10. AVR's licences for the four undertakings are currently subject to a condition of licence requiring a minimum of 2% of all programming broadcast during the broadcast week to be in a Canadian Aboriginal language. The Commission notes that the essence of this condition of licence is to ensure that a certain level of Aboriginal-language spoken word programming is broadcast, and not to ensure a commitment to the language of broadcast for overall programming, which could include music. In its application, AVR stated that it had a preference for no fixed quantitative commitment regarding Aboriginal spoken word programming for CKAV-FM and its affiliated stations, but committed at the public hearing to refining its present condition of licence and maintaining a minimum level of 2% Aboriginal-language spoken word programming.

11. The Commission is of the view that Aboriginal-language programming is a key element to the maintenance of Aboriginal culture, especially in the context of an urban environment. Moreover, a condition of licence requiring a certain level of Aboriginal-language spoken word programming, rather than a certain level of Aboriginal-language programming in general, will ensure the use of Aboriginal languages and encourage learning and retention. The Commission therefore considers it appropriate to modify the condition of licence relating to the broadcast of Aboriginal-language programming, currently set out in the licences for these undertakings, so as to ensure a certain level of Aboriginal-language spoken word programming.

Vocal musical selections

12. The current licences for these undertakings are also subject to a condition of licence requiring a minimum of 2% of all vocal musical selections broadcast during each broadcast week to be in a Canadian Aboriginal language. AVR stated in its application that it had a preference for no fixed quantitative commitment regarding Aboriginal vocal music programming for CKAV-FM and its affiliated stations, but committed at the public hearing to refining its present condition of licence and maintaining a minimum level of 2% Aboriginal-language vocal music.
13. The Commission is of the view that Aboriginal-language music programming is a key element to the maintenance of Aboriginal culture, especially in the context of an urban environment, for it serves to communicate ideas, history and tradition. In the interest of disseminating and maintaining Aboriginal culture in an urban environment, the Commission considers it appropriate to maintain the condition of licence relating to the broadcast of Aboriginal-language music, currently set out in the licences for these undertakings.

Extension to implementation deadlines

14. AVR has applied for and has received numerous extensions of time to implement its various undertakings across Canada. Although the licensee commenced operations relatively quickly at Toronto in December 2002, it only recently began operations in Calgary and Ottawa (30 June 2006). In regard to the Vancouver undertaking, AVR began operations following approval on 21 November 2006 by the Federal Communications Commission, in accordance with Canada-U.S. agreements on broadcasting frequencies and as confirmed by the Department of Industry, for the use of frequency 106.3 MHz.
15. Although, as argued by AVR, cash-flow problems, elevated infrastructure costs and other logistical difficulties have impeded the roll-out of its services, the licensee submitted that the addition of new members to its team providing expertise in a number of areas (regulatory, technical, managerial, etc.) should aid in AVR's continued progress. The Commission notes the measures taken by AVR to advance itself in the development of its network and individual undertakings from the perspective of securing funding,

building infrastructure and hiring competent and experienced staff. The Commission expects AVR to implement any new services in a timely fashion and to file applications for amendments to the licences for its radio programming undertakings at Montréal, Kitchener/Waterloo and Edmonton, in order to standardize its operations.

## Conclusion

16. In light of the above, the Commission **renews** the broadcasting licences for the Native Type B radio programming undertakings CKAV-FM Toronto, CKAV-FM-2 Vancouver, CKAV-FM-3 Calgary and CKAV-FM-9 Ottawa, from 1 May 2007 to 31 August 2010. The Commission's decision to impose a short-term renewal period is consistent with its policy on non-compliance renewals as set out in *Practices regarding radio non-compliance*, Circular No. 444, 7 May 2001, and will allow it to monitor the programming of each station in the short term, in order to ensure the licensee's compliance with its conditions of licence as well as with the filing of logger tapes and annual returns. The licences for these undertakings will be subject to the **terms and conditions** set out in the appendix to this decision.
17. The Commission reminds AVR that it must file, in a timely fashion, annual returns and logger tapes and that it is expected to implement any new services in a timely fashion. The Commission also expects AVR to apply to amend its licences for its other radio programming undertakings across Canada so as to standardize its operations and to adopt the conditions of licence set out in the appendix to this decision.

Secretary General

*This decision is to be appended to each 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>*

## Appendix to Broadcasting Decision CRTC 2007-121

### Terms of licence

#### Renewal of the licences for CKAV-FM Toronto, CKAV-FM-2 Vancouver, CKAV-FM-3 Calgary and CKAV-FM-9 Ottawa

The Commission renews the licences for the above-mentioned undertakings from 1 May 2007 until 31 August 2010.

### Conditions of licence

Where the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” appear in the following conditions of licence, they shall have the same meaning as that set out in the *Radio Regulations, 1986*.

1. The licensee shall devote a minimum of 25% of its weekly broadcast schedule to the broadcast of local programming within twelve (12) months of the date of this decision.

For the purposes of this condition, “local programming” shall have the same meaning as that set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, as amended from time to time.

2. The licensee shall broadcast regular daily local newscasts within twelve (12) months of the date of this decision.
3. The licensee shall devote a minimum of twenty (20) hours per broadcast week to structured enriched spoken word programming. For the purposes of this condition of licence, “structured enriched spoken word programming” shall be defined as:
  - spoken word programming of any length and in any language involving some research pertaining to the documentation of current and past events, instruction and information, human interest information, leisure interests, public affairs, cultural programming, storytelling, academic instruction, interviews and the like.
  - spoken word programming as described above that does not include song intros/outros, surveillance information (such as news reports, weather and public service announcements), impromptu, casual or spontaneous talk by announcers during music-flow programming, contests, or any programming defined by content categories 2, 3, 4 or 5 as set out in the *Radio Regulations, 1986*.

- spoken word programming as described above and of which the duration shall not include the time devoted to musical selections interspersed with or interrupting such programming.

The licensee shall provide, upon the Commission's request, the schedule for a broadcast week of all the programming defined above.

4. The licensee shall ensure that a minimum of 2% of all spoken word programming broadcast during each broadcast week is in a Canadian Aboriginal language.
5. The licensee shall ensure that a minimum of 2% of all vocal musical selections aired during each broadcast week is in a Canadian Aboriginal language.
6. The licensee shall ensure that a minimum of 35% of all musical selections from content category 2 (Popular music) aired during each broadcast week are Canadian selections, broadcast in their entirety.
7. The licensee shall adhere to the guidelines on gender portrayal set out in the Canadian Association of Broadcasters' (CAB's) *Sex-Role Portrayal Code for Television and Radio Programming*, as amended from time to time and approved by the Commission.
8. The licensee shall adhere to the provisions of the CAB's *Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission.

## **Encouragements**

### **Employment equity**

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 its management of human resources.