



## Broadcasting Decision CRTC 2007-331

Ottawa, 28 August 2007

### **Radio Témiscamingue incorporée** Ville-Marie and Témiscaming, Quebec

*Application 2007-0258-1, received 16 February 2007*  
*Broadcasting Public Notice CRTC 2007-65*  
*19 June 2007*

### **CKVM-FM Ville-Marie and its transmitter CKVM-FM-1 Témiscaming – Licence renewal**

*The Commission **renews** the broadcasting licence for the French-language commercial FM radio programming undertaking CKVM-FM Ville-Marie and its transmitter CKVM-FM-1 Témiscaming from 1 September 2007 to 31 August 2009. This short-term renewal will enable the Commission to assess at an earlier date the licensee's compliance with the Radio Regulations, 1986.*

#### **The application**

1. The Commission received an application from Radio Témiscamingue incorporée (Radio Témiscamingue) to renew the broadcasting licence for the French-language commercial FM radio programming undertaking CKVM-FM Ville-Marie and its transmitter CKVM-FM-1 Témiscaming, which expires 31 August 2007.

#### **Background**

2. On 28 February 2003, in Broadcasting Decision 2003-81 (Decision 2003-81), the Commission approved an application by Radio Témiscamingue to convert to the FM band and granted it a broadcasting licence to operate the new FM station. In that decision, the Commission noted that the licensee's licence had been renewed for a short period in 2001 because of the serious concerns raised in Decision 2001-679, including the repeated failure by Radio Témiscamingue to comply with the *Radio Regulations, 1986* (the Regulations). Decision 2001-679 was accompanied by Mandatory Order 2001-2, which required the licensee to comply at all times with the provisions of the Regulations with respect to logger tapes.
3. In Decision 2003-81, the Commission required the licensee, by condition of licence, to submit to the Commission, every three months or until otherwise advised in writing by the Commission, a self-assessment of the programming broadcast over a given week. This report was to demonstrate the licensee's compliance with the Regulations, the Commission's policies and the conditions of its licence. More particularly, the report was to show that the licensee had complied with the requirements of section 8 of the Regulations concerning logger tapes during this three-month period.

## Non-compliance

4. On 19 June 2007, in Broadcasting Public Notice 2007-65, the Commission announced the receipt of the application and noted the licensee's apparent non-compliance with the provisions of the Regulations concerning the broadcast of French-language vocal music (FVM) during the broadcast weeks of 2 to 8 May 2004, 22 to 28 January 2006 and 4 to 10 February 2007.
5. An analysis of the programming broadcast by CKVM-FM during these weeks showed that the licensee had devoted 54.6%, 62.47% and 63.9% respectively of its content category 2 vocal musical selections over the week analyzed to French-language musical selections. These findings indicate a breach of section 2.2(5) of the Regulations, which stipulates that:

Except as otherwise provided under a licensee's condition of licence, an AM or FM licensee licensed to operate a campus station, commercial station or community station in the French language shall, in a broadcast week, devote 65% or more of its vocal musical selections from content category 2 to musical selections in the French language broadcast in their entirety.

6. The Commission therefore notified the licensee of its apparent non-compliance with section 2.2(5) of the Regulations regarding the percentage of musical selections in the French language broadcast in their entirety in a broadcast week.
7. The licensee's self-assessment reports for the weeks in question revealed that it had not broadcast the levels of FVM required under the Regulations. As an explanation, the licensee provided the following clarifications:
  - For the week of 2 to 8 May 2004, the level of FVM broadcast dipped below the levels prescribed by regulation because of the broadcast, on Saturday evening, of a special program devoted to rock music. The licensee indicated that it had taken the measures necessary to correct this instance of non-compliance.
  - With respect to the week of 22 to 28 January 2006, the licensee acknowledged having broadcast only 54.8 % of FVM and indicated that it had taken measures to meet the requirements of the Regulations.
  - As for the week of 4 to 10 February 2007, the broadcast between 4 p.m. and 10 p.m. on 4 February 2007 of a telethon for the physically challenged in the Abitibi-Témiscamingue area resulted in a decrease in the number of selections broadcast. The licensee indicated that it would take the measures necessary to meet the requirements of the Regulations with respect to the broadcast of FVM when broadcasting the telethon next year.

8. The Commission received one intervention in connection with this application. In its comment, the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) mainly highlighted its concerns about musical diversity and new voices, the issue of music programming, emerging artists, and contributions to Canadian content development (CCD).
9. ADISQ also emphasized that after examining the self-assessment reports, it noted the apparent non-compliance with respect to FVM for the week of 22 to 28 October 2006. After examining the report, the Commission is also of the opinion that there could have been a breach of the Regulations with respect to the broadcast of FVM during the week of 22 to 28 October 2006.
10. With regard to CCD, ADISQ stressed that it had found no evidence in the licensee's file of a payment for the year 2006 in the amount of \$100 directed to performing arts companies. In response to this allegation, Radio Témiscamingue stated that it had sent a cheque to MUSICACTION in the amount of \$100 for the year 2006.
11. Although ADISQ noted the licensee's compliance with the requirement to submit self-assessment reports of its musical programming every three months, it nevertheless requested that the Commission impose, as a condition of licence, a new quota for new voices and the requirement to file detailed statistical information. Finally, ADISQ also asked the Commission to ensure that the licensee be subject to a short-term licence renewal for a two-year period accompanied by a mandatory order to comply with the provisions of the Regulations.

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

12. The Commission has carefully reviewed the licence renewal application and the licensee's file. The Commission has also noted the intervention filed by ADISQ, which emphasizes the licensee's extensive history of non-compliance and the results of more recent apparent breaches, particularly with regard to the broadcast of FVM, and which has requested that other requirements be imposed by condition of licence and that the term of the licence renewal be shorter.
13. In light of the licensee's repeated breaches, the Commission considers it necessary to retain the condition of licence to submit every three months a self-assessment of the programming broadcast over a given week as proof that the licensee has complied with the Regulations, the Commission's policies and the conditions of its licence. Further, the report shall demonstrate that the applicant has complied with the requirements of section 2.2(5) of the Regulations with respect to the percentage of French-language vocal musical selections broadcast in their entirety in each broadcast week. The Commission reminds the licensee that it must comply with the requirements of the Regulations at all times. A **condition of licence** to this effect is set out in the appendix to this decision.

14. The Commission also considers it appropriate to renew this licence for a short term of two years, in accordance with the provisions set out in Circular No. 444. This short-term licence renewal will enable the Commission to assess at an earlier date the licensee's compliance with the Regulations and the station's conditions of licence and will also allow the Commission to have recourse if necessary to additional measures, including the issuance of a mandatory order, the suspension, the non-renewal or the revocation of the licence, in the event of any future non-compliance by Radio Témiscamingue with the Regulations or its conditions of licence.
15. In light of all of the above, the Commission **renews** the broadcasting licence for the French-language commercial FM radio programming undertaking CKVM-FM Ville-Marie and its transmitter CKVM-FM-1 Témiscaming under the terms and **conditions of licence** set out in the appendix to this decision.

### **Canadian content development**

16. In its *Commercial Radio Policy, 2006* (Broadcasting Public Notice 2006-158), the Commission set out a new approach to the development and promotion of Canadian artists. In order to reflect a new emphasis on development initiatives that lead to the creation of audio content for broadcast using Canadian resources, the Commission replaced the expression "Canadian talent development" (CTD) with "Canadian content development" (CCD). Under the new policy, each radio station holding a commercial radio licence is required to make a basic annual CCD contribution based on its total broadcast revenues in the previous broadcast year. No less than 60% of this basic annual CCD contribution must be allocated to FACTOR or MUSICACTION. The remainder must be allocated to parties and initiatives fulfilling the definition of eligible initiatives in Broadcasting Public Notice 2006-158. This requirement will be reflected in the Regulations. Until such time, it will be implemented by a transitional condition of licence, as set out in the appendix to this decision. This condition of licence will expire upon the coming into force of the amendments to the Regulations.

Secretary General

### **Related documents**

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CKVM Ville-Marie – Conversion to FM band*, Broadcasting Decision CRTC 2003-81, 28 February 2003

- *Short-term licence renewal for CKVM and its transmitter CKVM-FM-1 – issuance of a mandatory order, Decision CRTC 2001-679, 7 November 2001*
- *Practices regarding radio non-compliance, Circular No. 444, 7 May 2001*

*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>.*

# Appendix to Broadcasting Decision CRTC 2007-331

## Terms, conditions of licence and encouragement for CKVM-FM Ville-Marie and its transmitter CKVM-FM-1 Témiscaming

### Terms

The licence will expire 31 August 2009.

### Conditions of licence

1. The licence shall be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition number 5.
2. The licensee shall make a basic annual contribution to Canadian content development (CCD). The amount of the contribution shall be determined in accordance with the policy set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (Public Notice 2006-158), as amended from time to time.

The licensee shall allocate 60% of this basic annual CCD contribution to FACTOR or to MUSICACTION.

The remainder of the annual basic contribution to CCD shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives in Public Notice 2006-158.

This condition of licence shall expire upon the coming into force of the amendments to the *Radio Regulations, 1986* relating to CCD.

3. The licensee shall submit to the Commission, every three months, a self-assessment of the programming broadcast over a given week. This report shall serve as evidence that the licensee has complied with the *Radio Regulations, 1986* (the Regulations), the Commission's policies and the conditions of its licence. The report shall also demonstrate that the licensee has complied with the requirements of section 2.2(5) of the Regulations with respect to the percentage of French-language vocal musical selections broadcast in their entirety in each broadcast week.

### Encouragement

#### 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.