



## Broadcasting Decision CRTC 2008-223

Ottawa, 26 August 2008

**3553230 Canada inc.**  
Saint-Constant, Quebec

*Application 2008-0139-1, received 25 January 2008*  
*Public Hearing in the National Capital Region*  
*13 May 2008*

### **CJMS Saint-Constant – Licence renewal**

*The Commission **renews** the broadcasting licence for the commercial radio programming undertaking CJMS Saint-Constant from 1 September 2008 to 31 August 2010. This short-term renewal will allow the Commission to assess at an earlier date the licensee's compliance with the provisions of the Radio Regulations, 1986 regarding the filing of annual reports and its condition of licence relating to contributions to Canadian content development.*

### **Introduction**

1. The Commission received an application by 3553230 Canada inc. (3553230 Canada) to renew the broadcasting licence for the commercial radio programming undertaking CJMS Saint-Constant. The current licence expires 31 August 2008.
2. In Broadcasting Notices of Public Hearing 2008-1-2 and 2008-1-4, the Commission announced the receipt of this application and noted the licensee's apparent failure to comply with its condition of licence concerning contributions to Canadian content development (CCD) for the 2006 broadcast year and with the provisions of section 9(2) of the *Radio Regulations, 1986* (the Regulations) regarding the filing of the annual return for the fiscal year that ended 31 August 2007.
3. The Commission received a few opposing interventions in response to the application, as well as a comment from the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ).
4. In his intervention, Mr. Michel Mathieu opposed the renewal of this licence. Mr. Mathieu stated that station management demonstrated a blatant lack of responsibility and competence. Mr. Mathieu pointed out the station's non-compliance with the regulatory requirements of the Department of Industry, with its obligations with regard to the filing of annual returns and with its condition of licence relating to contributions to CCD.

5. The other interveners, all private citizens, noted that the station does not provide any actual local news and that this is unacceptable as well as being prejudicial to the people of Roussillon, who deserve quality local radio service.

### **Non-compliance**

6. By letter dated 1 February 2008, the Commission notified 3553230 Canada that it was in apparent non-compliance with the provisions of section 9(2) of the Regulations pertaining to the filing of its annual return for the 2007 broadcast year and requested that the licensee submit the required documents by 11 February 2008.
7. In the same letter, the Commission also advised the licensee that it was in apparent non-compliance with its condition of licence regarding its contribution to Canadian talent development (CTD) under the Canadian Association of Broadcasters' former CTD plan.
8. The licensee communicated with the Commission several times by telephone. During these conversations the licensee explained that the delays were due to the fact that it had had to find a new accountant. The Commission notes that the financial statements were received on 13 February 2008 and that the 2007 annual return was also filed subsequent to that date.

### **Commission's analysis**

9. The Commission notes that this is the second time that 3553230 Canada is in apparent non-compliance with the requirements of the Regulations regarding the filing of annual returns.
10. The Commission notes, however, that the licensee has concluded an agreement with an accounting firm to keep its internal accounting up-to-date on a monthly and quarterly basis. According to the licensee, this agreement will allow it to file annual returns on time and to honour its commitments to the Commission. The Commission considers that the measures taken and the commitments made by 3553230 Canada will ensure the compliance of CJMS-FM with the Regulations at all times. The Commission is therefore of the view that a mandatory order is not necessary under the circumstances.
11. As set out in Circular No. 444, in cases of repeated non-compliance, where the Commission is satisfied with the measures that the licensee has put in place and has good reason to believe that non-compliance is not likely to recur, the station is normally granted a two-year renewal. This is the second time that CJMS-FM has been found to be in non-compliance with the Regulations. Accordingly, the Commission finds it appropriate to renew the licence for CJMS-FM for a period of two years, in accordance with Circular No. 444. This short-term renewal will enable the Commission to assess at an earlier date the licensee's compliance with the Regulations as to the filing of annual returns and with its condition of licence regarding contributions to CCD.

12. In Broadcasting Decision 2006-352, the Commission noted, that the licensee had reached an agreement with MUSICACTION to remit to it all outstanding amounts for CTD contributions incurred during the first licence term.
13. The Commission notes that the CTD contributions must be paid by 31 August 2008. The Commission reminds the licensee that it must submit proof that these payments to MUSICACTION have been made.

### **Determination**

14. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial radio programming undertaking CJMS Saint-Constant from 1 September 2008 to 31 August 2010. The licence will be subject to the **conditions** set out in Appendix 1 to this decision.
15. With regard to the issue of news coverage, the Commission notes that it has received letters from several municipalities in Roussillon expressing satisfaction with the coverage of local events.
16. As to the matter of Department of Industry regulatory requirements, the Commission notes that the application for renewal meets the requirements of the *Radiocommunications Act* and its Regulations.

### **Canadian content development**

17. In *Commercial Radio Policy 2006*, 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” with “Canadian content development.” 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.
18. In Broadcasting Public Notice 2007-79, the Commission solicited comments on the proposal to amend the Regulations in order to reflect the determinations set out in its policy frameworks for commercial radio and for digital radio announced in Broadcasting Public Notices 2006-158 and 2006-160, respectively. One of the proposed changes was an amendment to section 15 of the Regulations in order to implement the new regime for CCD contributions announced in Broadcasting Public Notice 2006-158.
19. On 23 July 2008, in Broadcasting Public Notice 2008-67, the Commission indicated that the amendments set out in *Regulations amending the Radio Regulations, 1986*, SOR/2008-177, 28 May 2008 would come into force on 1 September 2008. Accordingly, the Commission reminds the licensee that it is required to comply with the requirements regarding CCD contributions set out in section 15 of the Regulations.

## Employment equity

20. In accordance with *Implementation of an equity employment policy*, Public Notice 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.

Secretary General

### Related documents

- *Amendments to the Radio Regulations, 1986 – Implementation of the Commercial Radio Policy 2006 and the Digital Radio Policy – Regulatory Policy*, Broadcasting Public Notice CRTC 2008-67, 23 July 2008
- Broadcasting Notice of Public Hearing CRTC 2008-1-2, 2 April 2008
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CJMS Saint-Constant – Licence renewal*, Broadcasting Decision CRTC 2006-352, 10 August 2006
- *Practices regarding radio non-compliance*, Circular No. 444, 7 May 2001
- *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999

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>.*

## Appendix 1 to Broadcasting Decision CRTC 2008-223

### Conditions of licence

1. 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, with the exception of conditions n<sup>os</sup> 1 and 5.
2. 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* (the Regulations):
  - a) devote, in each broadcast week, a minimum of 40% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety; and
  - b) devote, between 6 a.m. and 6 p.m., in any period beginning on Monday of a week and ending on Friday of the same week, a minimum of 40% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian musical selection” and “musical selection” shall have the meaning as that set out in the Regulations.

3. As indicated in *CJMS Saint-Constant – Licence renewal*, Broadcasting Decision CRTC 2006-352, 10 August 2006, the licensee shall remit to MUSICACTION any outstanding contributions to Canadian talent development incurred during the first licence term. The last remittance must be made to MUSICACTION by 31 August 2008.
4. The licensee shall refrain from soliciting or accepting local advertising for broadcast during any broadcast week when less than one-third of the programming aired is local. The definition of local programming shall be as set out in *Commercial Radio Policy, 2006*, Public Notice CRTC 2006-158, 15 December 2006, as amended from time to time.
5. The licensee shall adhere to the balance and ethics guidelines set out in Parts III.B.2.a) and IV of *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, as amended from time to time, when broadcasting religious programming, as defined in that notice.
6. The licensee shall adhere to the CJMS Code of Ethics set out in Appendix II to this decision.

7. The licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.
8. The licensee shall adhere to the CAB's *Broadcast code for advertising to children*, as amended from time to time and approved by the Commission.

## **Appendix 2 to Broadcasting Decision CRTC 2008-223**

### **Code of ethics**

1. CJMS will, inasmuch as possible and in a balanced and reasonable manner, ensure that its programming is a forum for the expression of differing points of view on matters of public interest.
2. CJMS will make every effort to ensure that its programming is of high standard and that no person, class of persons, association, or formal or informal group is exposed to contempt or hatred based on ethnic or national origin, race, colour, religion, age, physical or mental disability, sex, sexual orientation or family status.
3. CJMS will endeavour to broadcast information programs, viewpoints, commentaries and editorials that demonstrate integrity, accuracy, objectivity and impartiality.
4. Hosts, journalists and guests will always disclose any personal interests they may have in an issue being discussed or commented on during a program. Commitment to a cause shall not under any circumstances lead to facts being distorted or presented in a non-objective or biased manner.
5. Similarly, hosts and journalists will not use the airwaves to launch personal attacks or to obtain personal favours of any kind.
6. A host may offer his or her opinion provided it is done with respect.
7. A host or journalist may, and in some cases must in the public interest, raise the validity of remarks made by a speaker in the course of a program in order to ensure balance and representativeness. CJMS shall do everything possible to maintain balance in its religious programs and in all its programming.
8. Listeners have a right of reply if they feel offended by an observation, commentary, interview, statement or report pertaining to them. Any person who wishes to exercise this right of reply may contact the general manager of the station, who will then work with the person making the request to determine the appropriateness and validity of the request and establish the terms and conditions of the reply.
9. The production teams for programs will verify the intentions and interests of guests or participants (listeners) on programs. Without limiting freedom of expression or the free flow of ideas and opinions, the production team will carry out the necessary checks to ensure that organized groups do not take control of programs.

10. Hosts and journalists are members of the production team and in that capacity endorse the choices made. They also share responsibility for ensuring compliance with these rules.
11. Open-line or call-in programs are subject to a time delay. The host or producer shall turn on the time delay system if remarks by a listener contravene the principles of this code of ethics. Any employee involved in this type of programming shall have a copy of this code and shall be directed to use the time delay system in the event of any doubt.
12. Participants in an open-line or other program, public figures, listeners, and formal or informal groups are entitled to respect and should not be harassed, insulted or ridiculed.
13. Coarse or vulgar remarks have no place in programming.
14. Hosts, journalists and other participants in information programs will ensure that their remarks, comments or reports do not interfere with any person's right to a fair trial.