



Broadcasting Decision CRTC 2009-549

Route reference: 2009-157

Ottawa, 31 August 2009

Radio Express inc.
Salaberry-de-Valleyfield, Quebec

Application 2009-0124-0, received 14 January 2009

Public hearing held in Québec, Quebec

26 May 2009

CKOD-FM Salaberry-de-Valleyfield – Licence renewal

*The Commission **renews** the broadcasting licence for the French-language commercial radio programming undertaking CKOD-FM Salaberry-de-Valleyfield, from 1 September 2009 to 31 August 2010.*

Introduction

1. The Commission received an application by Radio Express inc. (Radio Express) to renew the broadcasting licence for the French-language commercial radio programming undertaking CKOD-FM Salaberry-de-Valleyfield. The licence expires 31 August 2009.
2. In Broadcasting Decision 2007-159, the Commission granted Radio Express a short-term renewal of two years and issued a mandatory order pursuant to section 12(2) of the *Broadcasting Act* (the Act). The mandatory order required the licensee to comply at all times during the new licence term with the provisions of section 9(2) of the *Radio Regulations, 1986* (the Regulations), which reads as follows:

On or before November 30 of each year, a licensee shall submit to the Commission a statement of accounts, on the annual return of broadcasting licensee form, for the year ending on the previous August 31.
3. In that decision, the Commission noted that, in Broadcasting Decision 2006-353, it had granted CKOD-FM a short-term licence renewal of nine months and issued four mandatory orders pursuant to section 12(2) of the Act.
4. On 25 March 2009, in Broadcasting Notice of Consultation 2009-157, the Commission announced receipt of the present application and noted the licensee's apparent non-compliance with the provisions of the Regulations concerning the submission of logger tapes for the broadcast week of 8 to 14 June 2008 and of its annual report for the broadcast year ending 31 August 2008. The Commission added that the licensee appeared to be in contravention of Broadcasting Mandatory Order 2007-7 appended to Broadcasting Decision 2007-159, which renewed CKOD-FM's licence from 1 June 2007 to 31 August 2009.

5. In that notice, the Commission indicated that it expected the licensee to show cause why a new mandatory order requiring the licensee to comply with the Regulations relating to the submission of logger tapes and of annual reports should not be issued. The Commission also indicated that the licensee would be given an opportunity to demonstrate why the Commission should not suspend or refuse to renew the licence.
6. As part of the present proceeding, the Commission received and examined an intervention regarding this licence renewal application. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca, under "Public Proceedings."
7. After examining the application and the intervention, the Commission is of the view that the issues to be examined are as follows:
 - the licensee's apparent non-compliances with respect to the submission of logger tapes and of the annual report; and
 - the renewal of the licence.

Commission's analysis and determinations

The licensee's apparent non-compliance

8. In Broadcasting Notice of Consultation 2009-157, the Commission noted that the licensee may have failed to comply with sections 8(6) and 9(2) of the Regulations regarding the submission of logger tapes and the annual report. The Commission added that the station had been monitored by Commission staff.
9. At the hearing, the licensee explained that a major storm had hit Salaberry-de-Valleyfield on 10 June 2008 causing a large number of power outages. According to the licensee, Hydro-Québec had also cut the power the following day for repairs to the power system. Radio Express attributed the fact that the logger tapes for 10 and 11 June 2008 were incomplete due to these power outages.
10. Given the licensee's history of non-compliance, Commission staff asked Hydro-Québec to validate this information. According to the information obtained from Hydro-Québec, the Commission notes that power outages did in fact occur on 10 June 2008. However, contrary to the licensee's assertions, the report from Hydro-Québec makes no mention of a power outage or any other event attributable to its equipment on 11 June 2008.
11. Further, with respect to the submission of the annual report for the broadcast year ending 31 August 2008, which was to be filed by 30 November 2008, Radio Express explained that it had experienced problems with the Commission's epass system. The licensee attributed the delay in submitting certain documents related to the annual report to these problems. When questioned on this matter at the hearing, the licensee indicated that this information had been available as of November 2008.

12. Upon examination, the Commission notes that the annual report for 2007–2008 had been filed on time but that several related documents, including the financial statements, the Canadian content development (CCD) contribution form and proof of payment of these contributions, were missing. The Commission considers that the failure to file those documents by 30 November 2008 constitutes non-compliance with respect to the submission of annual reports.

Renewal of the licence

13. The Commission notes an improvement in the licensee's performance in meeting its regulatory requirements and considers that the circumstances warrant neither the suspension or non-renewal of its licence, nor the issuance of a mandatory order pursuant to section 12(2) of the Act. However, the Commission is still concerned by the fact that the licensee did not comply with the deadline for submitting all the documents related to its annual report. Accordingly, the Commission **renews** the broadcasting licence for the French-language commercial radio programming undertaking CKOD-FM Salaberry-de-Valleyfield for a short-term period of one year, from 1 September 2009 to 31 August 2010. The licence will be subject to the **conditions** set out in the appendix to this decision.
14. The Commission notes that, consistent with all cases of findings of non-compliance, in the event of any future non-compliance by the licensee with the Regulations or with one of its conditions of licence, it may have recourse to measures such as the suspension, non-renewal or revocation of the licence in order to address the situation.
15. Further, the Commission reminds Radio Express that it is required to adhere to the requirements relating to contributions to CCD set out in section 15 of the Regulations, as amended from time to time. Parties and initiatives eligible for CCD funding are identified in paragraph 108 of Broadcasting Public Notice 2006-158.
16. At the hearing, the licensee's spokesperson stated that Radio Express had signed a letter of intent to sell CKOD-FM. The Commission notes that, to date, it has not been notified about this sale. The Commission reminds the licensee that any change in the effective control of the radio programming undertaking owned by Radio Express would be subject to prior approval by the Commission.

Secretary General

Related documents

- *Various broadcasting applications* – Notice of hearing, Broadcasting Notice of Consultation CRTC 2009-157, 25 March 2009
- *CKOD-FM Salaberry-de-Valleyfield — Licence renewal and issuance of a mandatory order*, Broadcasting Decision CRTC 2007-159, 31 May 2007
- *CKOD-FM Salaberry-de-Valleyfield — Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2006-353, 10 August 2006

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

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 2009-549

Terms, conditions of licence and encouragement

Terms

The licence will be in effect from 1 September 2009 to 31 August 2010.

Conditions of licence

1. The licence will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
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 55% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety; and
 - b) devote, 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, a minimum of 55% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.

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

Encouragement

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.