



Broadcasting Decision CRTC 2013-691

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Route references: 2013-215 and 2013-324

Ottawa, 13 December 2013

Canadian Hellenic Cable Radio Ltd.
Montréal, Quebec

Applications 2013-0229-9 and 2013-0228-1, received 25 January 2013

CKDG-FM and CKIN-FM Montréal - Licence renewals

*The Commission **renews** the broadcasting licence for the commercial ethnic radio station CKDG-FM Montréal from 1 January 2014 to 31 August 2016 and the broadcasting licence for the commercial ethnic radio station CKIN-FM Montréal from 1 January 2014 to 31 August 2017. These short-term renewals will allow for an earlier review of the licensee's compliance with its conditions of licence and regulatory requirements.*

*The Commission further **approves** the licensee's proposal to amend conditions of licence for CKDG-FM as follows:*

- to decrease the minimum level of programming each broadcast week that must be devoted to ethnic programs from 70% to 60%;*
- to decrease the minimum level of programming each broadcast week that must be devoted to third-language programs from 60% to 50%;*
- to decrease the minimum number of languages in which programming must be broadcast during each broadcast week from eight to six; and*
- to increase the number of cultural groups to which programming must be directed during each broadcast week from six to eight.*

*The Commission further requires the licensee, by **condition of licence**, to provide an appropriate proof of payment for CKDG-FM's entire outstanding Canadian talent development shortfall of \$42,022 identified in Broadcasting Decision 2010-428 by **13 January 2014**.*

*The Commission, however, **denies** a similar proposal to amend conditions of licence for CKIN-FM.*

Introduction

1. Canadian Hellenic Cable Radio Ltd. (Canadian Hellenic) filed applications to renew the broadcasting licences for the commercial ethnic radio stations CKDG-FM and CKIN-FM Montréal, which expire 31 December 2013.¹
2. The licensee further proposed to amend conditions of licence for both CKDG-FM and CKIN-FM related to the minimum levels of ethnic and third-language programming to be broadcast, as well as the minimum number of ethnic groups to be served. These amendments are discussed later in this decision.

Interventions

3. The Commission received interventions in support of both applications.
4. The interventions supporting the application for CKIN-FM included joint supporting interventions in the form of petitions that the licensee provided. Following the deadline for interventions, three individuals contacted the Commission stating that their names had appeared on the petitions in error. The licensee subsequently requested that it be allowed to withdraw from the public record the joint supporting interventions for CKIN-FM. The Commission grants this request. The Commission reminds the licensee of the importance of ensuring that all material submitted as part of Commission proceedings is accurate in all respects. The public record for this application is available on the Commission's website at www.crtc.gc.ca under "Public proceedings."

Issues

5. After reviewing the record for these applications, the Commission considers that the issues that it must address are as follows:
 - amendments to conditions of licence relating to ethnic and third-language programming, and the number of ethnic groups served; and
 - apparent non-compliance with the *Radio Regulations, 1986* (the Regulations) and certain conditions of licence.

Amendments to conditions of licence

Licensee's proposal

6. The licensee proposed to amend conditions of licence for both CKDG-FM and CKIN-FM as follows:

¹ The original expiry date for these broadcasting licences was 31 August 2013. The licences were administratively renewed until 31 December 2013 as a result of Broadcasting Decision 2013-418.

- to decrease the minimum level of programming each broadcast week that must be devoted to ethnic programs from 70% to 60%;
 - to decrease the minimum level of programming each broadcast week that must be devoted to third-language programs from 60% to 50%;
 - to decrease the minimum number of languages in which programming must be broadcast during each broadcast week from eight to six; and
 - to increase the number of cultural groups to which programming must be directed during each broadcast week from six to eight.
7. Canadian Hellenic submitted that the proposed changes would allow its stations to serve a greater number of ethnic groups while providing it with greater programming flexibility. It indicated that it intended to expand its programming to communities that share a common language such as Spanish. Canadian Hellenic further considered that this flexibility would allow it to better respond to listener demand and help attract advertisers wishing to reach multicultural communities. The licensee further indicated that, although it wished to decrease the number of languages in which programming must be provided from eight to six, it would regard this as a minimum level. It stated that its current intent is to offer programming in nine languages on CKDG-FM and ten languages on CKIN-FM. It further indicated that Mandarin programming would be moved from CKDG-FM to CKIN-FM.
8. Canadian Hellenic further indicated that it intends to serve growing communities such as the Filipino community and expand its existing programming in Russian. The licensee also intends to introduce a monthly one-hour series that would feature programming produced by various cultural groups not yet served by CKIN-FM or CKDG-FM.
9. The licensee also requested that the Commission remove CKIN-FM's condition of licence relating to Canadian content development (CCD). However, this condition of licence was applicable only for the current licence term so it will expire automatically.

Commission's analysis and decisions

10. Public Notice 1999-117 (the Ethnic Broadcasting Policy) provides that:

- ethnic radio stations must devote a minimum of 60% of each broadcast week to ethnic programming, with a minimum of 50% of all programming broadcast in a third language;
- the number of ethnic groups served and the number of languages in which programming is provided by an ethnic radio station is determined by the demographics of the community, the services already available and the degree of support shown by local community organizations; and

- a balance should be struck between serving as many groups as practical and providing high quality programming to the groups served.
11. The Commission notes that the percentages of programming to be devoted to ethnic programming and to programming in a third language proposed by Canadian Hellenic are in line with the provisions of the Ethnic Broadcasting Policy.
 12. As indicated above, the number of groups to be served and the number of languages in which programming is provided are based on the circumstances of the market with a view to finding a balance between serving as many groups as practical and the need to provide high quality programming. While the licensee proposes to decrease the number of languages in which programming would be provided, the Commission notes that Canadian Hellenic plans to increase the number of ethnic groups that it would serve. This is because it intends to serve various groups that have Spanish as their language.
 13. Service to Spanish-speaking communities by other Montréal stations is currently limited. In Broadcasting Decision 2011-720, the Commission denied an application by La Méga Radio inc. for a broadcasting licence to operate a commercial ethnic AM station in Montréal that would primarily serve Spanish-speaking communities. In that decision, the Commission acknowledged that none of the existing Montréal ethnic stations has the Spanish-speaking communities as the primary focus of its programming. However, the Commission was concerned that awarding a licence for another ethnic radio station could have a negative impact on CKIN-FM because it had only begun to operate in 2010. The Commission therefore considers that the licensee's plan to expand service to the Spanish-speaking communities would provide a needed service to those communities. Providing service to the Filipino community and expanding programming in Russian would also increase the range of ethnic programming available in Montréal.
 14. In light of the above, the Commission finds that the number of groups that Canadian Hellenic proposes to serve and the number of languages in which programming would be provided reflect the ethnic diversity of the Montréal market and strike an appropriate balance between serving as many groups as practical and the need to provide high quality programming. It will also provide the licensee with flexibility to adjust its programming to reflect the needs of the market.
 15. The Commission licensed CKDG-FM in Broadcasting Decision 2003-194 and the station is completing its second licence term. The Commission notes, however, that CKIN-FM received its licence in Broadcasting Decision 2007-217. As a result of issues relating to the frequency it proposed, the Commission granted an extension to July 2010 for the licensee to implement the service, so CKIN-FM has only been in operation for about three years. In its original application for a licence, Canadian Hellenic proposed to primarily serve South Asian communities. The Commission approved Canadian Hellenic's application over those of other applicants based on its commitments, including those related to its programming.

16. Given that CKIN-FM has been in operation for only three years and received its licence as part of a recent competitive process based in part on its programming commitments, the Commission does not consider it appropriate to change those commitments at this time.
17. Accordingly, the Commission **approves** the amendments to conditions of licence proposed by Canadian Hellenic for CKDG-FM but **denies** those amendments for CKIN-FM. The conditions of licence for each station are set out in the appendices to this decision.

Non-compliance

CKDG-FM

18. In Broadcasting Notice of Consultation 2013-215, the Commission indicated that the licensee may have failed to comply with the following:
 - Section 9(2) of the Regulations relating to the filing of annual returns for the 2009-2010 broadcast year. Specifically, the licensee filed its annual return after the 30 November deadline.
 - Section 15 of the Regulations relating to CCD contributions for the 2009-2010, 2010-2011 and 2011-2012 broadcast years. Specifically, the licensee did not make the required annual contribution of \$500 for each of those broadcast years.
19. Broadcasting Notice of Consultation 2013-215 also indicated that the licensee may have failed to fulfill a commitment noted in Broadcasting Decision 2010-428 to pay shortfalls in Canadian talent development (CTD) contributions incurred during the 2003-2004 through 2007-2008 broadcast years totalling \$42,022 by 31 August 2011.
20. The licensee indicated that the delays in filing the annual returns were due to internal administrative challenges. Since the licensee also operates CKIN-FM, expenditures and revenues were calculated on a consolidated basis. This made it difficult to prepare separate financial statements for each station. The licensee indicated that it has changed its approach so that the accounts of its two stations are now maintained separately. Additionally, Canadian Hellenic indicated that it had hired a bookkeeper under an accountant's supervision to ensure that there are no further reporting delays.
21. The licensee provided proof of payments in the form of cancelled cheques for its basic CCD contributions for the 2009-2010, 2010-2011 and 2011-2012 broadcast years. Canadian Hellenic explained that it had failed to properly report its payments because of an administrative error.
22. With respect to its commitment to pay CTD shortfalls noted in Broadcasting Decision 2010-428, the licensee indicated that an extremely difficult financial climate prevailed in Montréal following CKDG-FM's last licence renewal. As a result it was unable to fulfill its commitment to complete its outstanding CTD contributions by 31 August 2011. In March 2013, the licensee provided copies of post-dated cheques to support its commitment to complete its outstanding CTD contributions by 31 August 2013.

23. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations relating to the filing of annual returns for the 2009-2010 broadcast year. The licensee also did not fulfil its commitment to make outstanding CTD contributions set out in Broadcasting Decision 2010-428 by 31 August 2011. The Commission further notes that it does not consider post-dated cheques to be acceptable proofs of payment. Cancelled cheques or receipts are required. The Commission is, however, satisfied that the licensee has fulfilled its obligation with respect to CCD contributions for the 2009-2010, 2010-2011 and 2011-2012 broadcast years.

CKIN-FM

24. In Broadcasting Notice of Consultation 2013-324, the Commission indicated that the licensee may have failed to comply with section 15 of the Regulations concerning CCD contributions for the 2010-2011 and 2011-2012 broadcast years. Specifically, the licensee did not make basic CCD contributions or additional contributions as required by Broadcasting Decision 2007-217.

25. The licensee indicated that the timing of the station's launch caused technical and financial challenges that affected its capacity to make its CCD contributions and report on them to the Commission in a timely manner. The licensee acknowledged that the payments were late. The licensee has since made the required CCD contributions for the 2010-2011 and 2011-2012 broadcast years and has filed the necessary supporting documents.

26. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence relating to CCD for the 2010-2011 and 2011-2012 broadcast years.

Regulatory measures

27. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to non-compliance by radio stations. Specifically, the Commission indicated that each instance of non-compliance would be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also indicated that it would consider the circumstances of the non-compliance, the arguments provided by the licensee and the measures taken to rectify the situation.

28. The Commission considers that initiatives relating to the development of Canadian content and talent not only help to develop and advance the careers of emerging Canadian artists but increase the supply of high-quality Canadian music in a variety of genres and the demand for Canadian music by listeners. Accordingly, it is important that radio licensees make their required contributions to the development of Canadian content and talent.

CKDG-FM

29. The Commission notes the measures that the licensee has put in place ensure that complete annual returns are provided in the future. It further notes that the licensee's obligations with respect to basic CCD contributions have been satisfied. As well, the licensee has taken measures to ensure CTD contribution shortfalls will be paid off. Given that this is the second consecutive licence term in which the licensee has been found in non-compliance for CKDG-FM and the circumstances surrounding the licensee's non-compliance, the Commission considers it appropriate to grant a short-term licence renewal to this station. The Commission further considers it appropriate to require the licensee, by **condition of licence**, to provide proof of payment for the entire outstanding CTD shortfall of \$42,022 identified in Broadcasting Decision 2010-428 by **13 January 2014**.

CKIN-FM

30. The Commission notes the licensee's explanation with respect to CKIN-FM's non-compliance with its CCD obligations and that the late payments for the 2010-2011 and 2011-2012 broadcast years have been made. Given the circumstances surrounding the licensee's non-compliance, the Commission considers it appropriate to grant a short-term licence renewal to this station.

Conclusion

31. In light of all of the above, the Commission **renews** the broadcasting licence for the commercial ethnic radio programming undertaking CKDG-FM Montréal from 1 January 2014 to 31 August 2016. The terms and conditions of licence are set out in Appendix 1 to this decision.
32. In addition, the Commission **renews** the broadcasting licence for the commercial ethnic radio programming undertaking CKIN-FM Montréal from 1 January 2014 to 31 August 2017. The terms and **conditions of licence** are set out in Appendix 2 to this decision.
33. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory requirements. The short-term renewals granted in this decision to CKDG-FM and CKIN-FM will allow for an earlier review of the licensee's compliance with its conditions of licence and regulatory requirements.

Secretary General

Related documents

- *Various programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2013-418, 19 August 2013
- *Notice of applications received*, Broadcasting Notice of Consultation CRTC 2013-324, 5 July 2013

- *Notice of application received*, Broadcasting Notice of Consultation CRTC 2013-315, 2 July 2013
- *Licensing of new radio stations to serve Montréal*, Broadcasting Decision CRTC 2011-720, 21 November 2011
- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *CKDG-FM Montréal - Licence renewal*, Broadcasting Decision CRTC 2010-428, 30 June 2010
- *Licensing of new radio stations in Montréal and Vaudreuil-Dorion, Québec*, Broadcasting Decision CRTC 2007-217, 6 July 2007
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Ethnic FM radio station in Montréal*, Broadcasting Decision CRTC 2013-194, 2 July 2003
- *Ethnic broadcasting policy*, Public Notice CRTC 1999-117, 16 July 1999

**This decision is to be appended to each licence.*

Appendix 1 to Broadcasting Decision CRTC 2013-691

Terms, conditions of licence and encouragements for the commercial ethnic radio programming undertaking CKDG-FM Montréal, Quebec

Terms

The licence will expire 31 August 2016.

Conditions of licence

1. The licence will be subject to the conditions set out in *Conditions of licence for AM and FM radio stations*, Broadcasting Regulatory Policy CRTC [2009-62](#), 11 February 2009, except conditions of licence 7 and 9
2. The station shall be operated within the Specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC [1995-60](#), 21 April 1995, and *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.
3. The licensee shall devote a minimum of 60% of the programming broadcast during each broadcast week to ethnic programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.
4. The licensee shall devote a minimum of 50% of the programming broadcast during each broadcast week to third language programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.
5. The licensee shall broadcast, in each broadcast week, programming directed to a minimum of eight cultural groups in a minimum of six languages.
6. The licensee shall ensure that at least 10% of the musical selections broadcast during ethnic programming periods during each broadcast week are Canadian selections.
7. The licensee shall provide an appropriate proof of payment for the entire outstanding Canadian talent development shortfall of \$42,022 identified in *CKDG-FM Montréal - Licence renewal*, Broadcasting Decision CRTC 2010-428, 30 June 2010, by **31 January 2014**.

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 the management of its human resources.

Appendix 2 to Broadcasting Decision CRTC 2013-691

Terms and conditions of licence and encouragement for the commercial ethnic radio programming undertaking CKIN-FM

Terms

The licence will expire 31 August 2017.

Conditions of licence

1. The licence will be subject to the conditions set out in *Conditions of licence for AM and FM radio stations*, Broadcasting Regulatory Policy CRTC [2009-62](#), 11 February 2009, except conditions of licence 7 and 9.
2. The station shall be operated within the Specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC [1995-60](#), 21 April 1995, and *Revised content categories and subcategories for radio*, Broadcasting Radio Policy 2010-819, 5 November 2010, as amended from time to time.
3. The licensee shall devote a minimum of 70% of the programming broadcast during each broadcast week to ethnic programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.
4. The licensee shall devote a minimum of 60% of the programming broadcast during each broadcast week to third language programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.
5. The licensee shall broadcast, in each broadcast week, programming directed to a minimum of six cultural groups in a minimum of eight languages.
6. The licensee shall ensure that at least 10% of the music selections broadcast during ethnic programming periods during each broadcast week are Canadian selections.

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 the management of its human resources.