



## Broadcasting Decision CRTC 2017-298

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Reference: Part 1 licence renewal application posted on 30 March 2017

Ottawa, 23 August 2017

### **Lenape Community Radio Society**

Thamesville, Ontario

*Application 2016-1091-5*

### **CKBK-FM Thamesville – Licence renewal**

*The Commission **renews** the broadcasting licence for the Native radio station CKBK-FM Thamesville from 1 September 2017 to 31 August 2019.*

*This short-term renewal will allow for an earlier review of the licensee's compliance with the regulatory requirements.*

#### **Application**

1. Lenape Community Radio Society filed an application to renew the broadcasting licence for the Native radio station CKBK-FM Thamesville, Ontario, which expires 31 August 2017. The Commission did not receive any interventions regarding this application.

#### **Non-compliance**

2. Section 9(2) of the *Radio Regulations, 1986* (the Regulations) requires licensees to file an annual return by 30 November of each year for the broadcast year ending the previous 31 August. The specific filing requirements, including the requirement to file financial statements, are set out in Broadcasting Information Bulletin 2011-795. Section 9(4) of the Regulations requires licensees to provide, upon Commission request, information regarding their adherence to regulatory and other requirements.
3. Further, as announced in Broadcasting Regulatory Policy 2014-444, the Commission amended various regulations, standard conditions of licence and certain exemption orders to require the mandatory distribution of emergency alert messages by broadcasting undertakings. While all commercial radio broadcasters were required to participate in the National Public Alerting System (NPAS) by 31 March 2015, the campus, community and Native radio stations were given until 31 March 2016 to participate and comply with related requirements as set out in section 16 of the Regulations.
4. After examining the record for this application, the Commission notes that no annual returns for the 2012-2013, 2013-2014 and 2014-2015 broadcast years were provided

to the Commission. Moreover, the licensee did not respond to any of Commission staff's letters, emails and phone calls. Therefore, the Commission has no confirmation that the station has implemented a public alerting system.

5. In light of the above, the Commission finds the licensee in non-compliance with sections 9(2), 9(4) and 16 of the Regulations.

### **Regulatory measures**

6. The Commission's approach to non-compliance by radio stations is set out in Broadcasting Information Bulletin 2014-608. Under that approach, each instance of non-compliance is evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The circumstances leading to the non-compliance, the arguments provided by the licensee and the actions taken to rectify the situation are also considered.
7. Compliance with deadlines for the filing of complete annual returns is important because it enables the Commission to monitor a licensee's performance and compliance with regulations. Accordingly, it considers the late or incomplete filing of annual returns a serious matter. Moreover, the lack of response from the licensee demonstrates that it does not take its regulatory obligations seriously.
8. Moreover, the full participation of the broadcasting industry is important for the NPAS to be effective in safeguarding and warning Canadians. As such, the Commission considers that compliance must be enforced and station compliance in a timely manner will be closely monitored. The Commission could choose to apply other regulatory measures, such as those set out in Broadcasting Information bulletin 2014-608, should the requirements with respect to the NPAS not be fulfilled.
9. Given the seriousness of these instances of non-compliance, the Commission finds it appropriate to renew the licence for CKBK-FM for a short-term period of two years.
10. Should the licensee again fail to respond to the Commission's inquiries, the Commission may consider not renewing or revoking the broadcasting licence for the station under sections 9 and 24 of the *Broadcasting Act* (the Act) and as described in Broadcasting Regulatory Policy 2014-554.
11. Further, the Commission requires the station to implement a public alerting system by no later than **31 October 2017**. It also requires the licensee to file CKBK-FM's annual returns for the 2012-2013, 2013-2014 and 2014-2015 broadcast years by no later than **30 September 2017**. **Conditions of licence** to that effect are set out in the appendix to this decision.

### **Conclusion**

12. In light of all of the above, the Commission **renews** the broadcasting licence for the Native radio programming undertaking CKBK-FM Thamesville from

1 September 2017 to 31 August 2019. The **conditions of licence** are set out in the appendix to this decision.

13. The Commission emphasizes the importance it places on a licensee's fulfillment of its regulatory obligations. The short-term licence renewal granted in this decision will allow for an earlier review of the licensee's compliance with the regulatory requirements.

## Reminders

14. Licensees are responsible for filing complete annual returns on time. In addition, as set out in Broadcasting Information Bulletin 2011-795, it is the licensee's responsibility to ensure that all appropriate forms and documentation are included with its annual returns and to contact the Commission if further clarification is required.
15. Licensees are required to provide, upon Commission request, information regarding their adherence to regulatory and other requirements. Failure to respond to the Commission's inquiries could lead to non-renewal of the broadcasting licence or its revocation.
16. Pursuant to section 22 of the Act, the broadcasting licence renewed in this decision will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Secretary General

## Related documents

- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *A targeted policy review of the commercial radio sector*, Broadcasting Regulatory Policy CRTC 2014-554, 28 October 2014
- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011

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

## Appendix to Broadcasting Decision CRTC 2017-298

### Terms and conditions of licence for the Native radio programming undertaking CKBK-FM Thamesville, Ontario

#### Terms

The licence will expire 31 August 2019.

#### Conditions of licence

1. The licensee shall devote, in each broadcast week, at least 35% of its musical selections from content category 2 (Popular Music) to Canadian musical selections broadcast in their entirety.
2. The licensee shall file its annual returns for the 2012-2013, 2013-2014 and 2014-2015 broadcast years by no later than **30 September 2017**.
3. The licensee shall implement a public alerting system by no later than **31 October 2017** and shall provide proof with its annual return by no later than **30 November 2017**.
4. The licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission.
5. The licensee shall adhere to the *Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission.