



Broadcasting Decision CRTC 2018-168 and Broadcasting Orders CRTC 2018-169, 2018-170 and 2018-171

PDF version

Reference: 2017-223

Ottawa, 18 May 2018

CPAM Radio Union.com inc.
Montréal, Quebec

Public record for this application: 2016-0601-3

Public hearing in the National Capital Region

7 September 2017

CJWI Montréal – Licence renewal and issuance of mandatory orders

*The Commission **renews** the broadcasting licence for the French-language ethnic commercial AM radio station CJWI Montréal, Quebec, from 1 September 2018 to 31 August 2020. This short-term licence renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.*

In addition, the Commission issues mandatory orders requiring CPAM Radio Union.com inc. to ensure that CJWI complies at all times with sections 8(1), 8(4), 8(6), 9(2), 9(3)(b) and 9(4) of the Radio Regulations, 1986.

Application

1. CPAM Radio Union.com inc. (CPAM Radio) filed an application to renew the broadcasting licence for the French-language ethnic commercial AM radio programming undertaking CJWI Montréal, Quebec, which expires 31 August 2018.¹

Interventions and reply

2. The Commission received interventions opposing the renewal application from two individuals. The two interveners raised concerns with the licensee's recurring instances of non-compliance.

¹ In Broadcasting Decision 2017-224, the broadcasting licence for CJWI was administratively renewed until 31 August 2018.

3. CPAM Radio replied that the shortcomings were due to technical matters not well understood by its staff and that a new employee had been hired and trained to fulfill regulatory requirements.

Non-compliance

4. In Broadcasting Notice of Consultation 2017-223, the Commission stated that the licensee was in apparent non-compliance with the following sections of the *Radio Regulations, 1986* (the Regulations) and with the following conditions of licence set out in Appendix 1 to Broadcasting Decision 2015-409:
 - section 9(2) relating to the filing of complete annual returns by no later than 30 November of each year, including financial statements and form 1411 (annual survey on National Public Alerting System) for the 2013-2014 through 2015-2016 broadcast years;
 - section 9(4) relating to the requirement to provide information relating to compliance with its regulatory obligations;
 - sections 8(1), 8(2), 8(4), 8(6) and 9(3)(b) relating to the keeping and filing of complete program logs, a clear and intelligible audio recording or other exact copy of all matter broadcast and music lists;
 - condition of licence 5 relating to over-and-above Canadian content development (CCD) contributions and the filing of proof of payment for such contributions; and
 - conditions of licence 6(a) and (b) relating to the broadcast of an announcement following the failure to comply with certain regulatory requirements and to demonstrate that the announcement was broadcast by filing an audio recording with the Commission.

Filing of annual returns

5. Section 9(2) of the Regulations requires licensees to file their annual returns by 30 November of a given 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.
6. In addition, since 2015 licensees must file annually, as part of their annual returns, Form 1411 – Emergency Alert Implementation Report, which requires broadcasters and broadcasting distribution undertakings to describe the steps they have taken to ensure their compliance with alerting requirements (such as implementing the National Public Alerting System) set out in Broadcasting Regulatory Policy 2014-444.
7. According to the Commission's records, the annual return for the 2013-2014 broadcast year was filed on 25 January 2015, almost two months late. Further, while the licensee filed its annual return for the 2015-2016 broadcasting year on time, form 1411 and the financial statements were missing. These were filed on 23 March 2017 and 7 April 2017, almost four and five months late.

8. The licensee stated that the annual returns were done on time, but that the bookkeeper forgot to give them to the authorized representative in charge of filing the returns with the Commission. The authorized representative will now be responsible for reviewing all documents produced by the bookkeeper to ensure that they are provided to the Commission in a timely manner.
9. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations.

Commission request for information

10. Section 9(4) of the Regulations requires licensees to provide information regarding their adherence to regulatory requirements.
11. In a letter dated 2 March 2016, the Commission asked the licensee to provide, by no later than 16 March 2016, audio recordings and related information concerning the programming broadcast by CJWI during the week of 21 to 27 February 2016. This information was filed with the Commission on 29 June 2016, more than three months late.
12. In light of the above, the Commission finds the licensee in non-compliance with section 9(4) of the Regulations.

Radio monitoring material

13. Sections 8(1) through 8(6) of the Regulations set out requirements relating to keeping, retaining and furnishing audio recordings and program logs to the Commission. Section 9(3)(b) of the Regulations sets out the information on musical selections that licensees must include when filing music lists for any period specified by the Commission.
14. Following the filing of the audio recordings by the licensee on 29 June 2016, in a letter dated 1 November 2016 the Commission requested that the licensee file a more detailed list of musical selections that would include, among other things, the content category for the selections broadcast. According to Commission records, the licensee did not respond to this request.
15. In light of the above, the Commission finds the licensee in non-compliance with sections 8(1), 8(2), 8(4), 8(6) and 9(3)(b) of the Regulations.

Contributions to Canadian content development

16. Pursuant to condition of licence 5 set out in Appendix 1 to Broadcasting Decision 2015-409, the licensee was required to make, by 31 August 2016, an over-and-above contribution to the CCD in the amount of \$2,500. Further, the licensee was required to file, by 30 November 2016 and in a form deemed acceptable by the Commission, proof of payment regarding the additional contribution to CCD.

17. The licensee did not file proof of payment of this over-and-above contribution by 30 November 2016. The proof was only filed in response to a clarification letter as part of this licence renewal process.
18. The licensee stated that the payments were made on time but that it forgot to submit the proofs with its annual return.
19. In light of the above, the Commission finds the licensee in non-compliance with its condition of licence 5 set out in Appendix 1 to Broadcasting Decision 2015-409.

Requirement to broadcast an announcement

20. Pursuant to condition of licence 6 set out in Appendix 1 to Broadcasting Decision 2015-409, the licensee was required to broadcast, within 14 days immediately following the publication of that decision, an announcement stating that the station had been found to be in non-compliance and that it had put measures in place to ensure that the non-compliance does not recur.
21. The licensee was also required to provide to the Commission the audio recordings for the broadcast days during which the announcement was broadcast and to file a completed and signed attestation to that effect by no later than 14 days following the final broadcast of the announcement.
22. According to the Commission's records, the licensee filed the recordings on 18 September 2015. However, the licensee did not read the exact wording specified in the condition of licence. Following a letter informing it of the situation, the licensee filed appropriate recordings on 23 October 2015, more than a month late.
23. The licensee explained that it believed that it would have been acceptable to respect the spirit of the announcement rather than read the exact wording provided in the condition of licence.
24. In light of the above, the Commission finds the licensee in non-compliance with condition of licence 6 set out in Appendix 1 to Broadcasting Decision 2015-409.

Regulatory measures

25. 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 action taken to rectify the situation are also considered.
26. The Commission also specified that the possible regulatory measures include the following: short-term licence renewal, imposition of conditions of licence or mandatory orders or the non-renewal, suspension or revocation of the licence. In addition, in the previous renewal decision for this licensee, the Commission found the

licensee to be in non-compliance with regulatory requirements and stated at paragraph 25 that should CPAM Radio again breach regulatory requirements, the Commission could consider recourse to additional measures, including suspension, non-renewal or revocation of the broadcasting licence for CJWI.

27. The licensee proposed measures to ensure future compliance. However, the Commission remains concerned that CJWI is in non-compliance for the third consecutive licence term. In light of the serious and recurring nature of the non-compliance, the Commission finds it appropriate to renew the licence for CJWI for a short-term period of two years.
28. In addition, the Commission finds it appropriate to require the licensee to broadcast an announcement regarding its non-compliance three times a day for five consecutive business days within the 14-day period following 1 September 2018, the beginning of the new licence term. To confirm compliance with this requirement, the licensee must file with the Commission the audio recordings for the broadcast days during which the announcement was broadcast in its entirety as written, as well as a completed and signed attestation as to the broadcast of the non-compliance announcement on CJWI, which can be found in Appendix 2 to this decision, by no later than 14 days following the final broadcast of the announcement. A **condition of licence** to that effect is set out in Appendix 1 to this decision.
29. In light of all the above, the Commission **renews** the broadcasting licence for the French-language ethnic commercial AM radio programming undertaking CJWI Montréal from 1 September 2018 to 31 August 2020. This short-term renewal will allow for an earlier review of the licensee's compliance with regulatory requirements. The licensee shall adhere to the **conditions of licence** set out in Appendix 1 to this decision.
30. In addition, for the reasons stated above, the Commission issues mandatory orders, pursuant to section 12(2) of the *Broadcasting Act* (the Act), requiring CPAM Radio to ensure that CJWI complies at all times with the following:
 - sections 8(1), 8(4), 8(6) and 9(3)(b) relating to the keeping and filing of a complete program log, a clear and intelligible audio recording or other exact copy of all matter broadcast and music lists;
 - section 9(2) relating to the filing of complete annual returns; and
 - section 9(4) relating to the filing of information upon Commission request.
31. The mandatory orders requiring compliance with the above-noted sections of the Regulations are set out in Appendices 3, 4 and 5 to this decision.
32. In response to a Commission letter, the licensee indicated that it would consent to the issuance of these orders. Pursuant to section 13 of the Act, the orders will be filed with the Federal Court and will become orders of that court.

33. Finally, given the recurring nature of the non-compliance over multiple licence terms and the licensee's apparent lack of cooperation, the Commission is concerned with the licensee's ability and commitment to operate the station in a compliant manner. Should the licensee again breach regulatory requirements, including the mandatory orders, the Commission will consider the suspension, non-renewal or revocation of the broadcasting licence under sections 9 and 24 of the Act.

Reminders

34. The licensee is responsible for filing complete annual returns on time, including the financial statements. 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.
35. Regarding obligations relating to CCD, it is incumbent upon licensees to provide, by the required deadlines, proof of payment. They must also provide sufficient documentation to support the eligibility of their contributions. Failure to do so may result in the Commission finding a contribution ineligible, which in turn may affect a station's compliance with regulatory obligations.
36. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. The submission of program logs, music lists and complete and accurate audio recordings enables the Commission to conduct an analysis of a station's programming to verify compliance with regulatory requirements and conditions of licence. The retention of audio recordings and logs also makes it possible for the Commission to investigate a station's programming in the case of complaints. As such, any licensee that does not file requested material in a timely manner or does not file such material at all affects the ability of the Commission to adequately perform its duty to independently confirm a licensee's adherence to regulatory requirements. These filings also become important indicators of whether the licensee has the willingness, ability and knowledge necessary to operate the station in a compliant manner.
37. Pursuant to section 22 of the Act, the broadcasting licence renewed in this decision will cease to have any force or effect should the broadcasting certificate issued by the Department of Industry lapses.

Secretary General

Related documents

- *Various radio stations – Administrative renewals*, Broadcasting Decision CRTC 2017-224, 29 June 2017
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2017-223, 29 June 2017

- *CJWI Montréal – Licence renewal*, Broadcasting Decision CRTC 2015-409, 31 August 2015
- *Update on the Commission’s approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 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, 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 1 to Broadcasting Decision CRTC 2018-168

Terms, conditions of licence and encouragement for the French-language ethnic commercial AM radio programming undertaking CJWI Montréal, Quebec

Terms

The licence will take effect 1 September 2018 and expire 31 August 2020.

Conditions of licence

1. The licensee shall adhere 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, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. The licensee is exempted from the requirement set out in section 7(2) of the *Radio Regulations, 1986* that it devote 50% of its programming to third-language programming.
3. The licensee shall devote at least 90% of its programming in each broadcast week to French-language ethnic programming targeting the Haitian, Latin-American and African communities with French as a first or second language. The remaining 10% of its programming may be in third languages, i.e. in languages other than French, English or an Aboriginal language.
4. As an exception to sections 2.2(3) to 2.2(10) of the *Radio Regulations, 1986*, the licensee shall in each broadcast week:
 - a) devote a maximum of 30% of the musical selections that it broadcasts to selections from content category 2 (Popular music);
 - i. the licensee shall devote at least 35% of all category 2 musical selections that it broadcasts to Canadian selections;
 - ii. the licensee shall devote a maximum of 15% of all category 2 musical selections that it broadcasts to French-language vocal music selections and a maximum of 15% of all category 2 musical selections to English-language vocal musical selections.
 - b) devote at least 70% of the musical selections that it broadcasts to musical selections from content subcategory 33 (World beat and international);
 - i. the licensee shall devote at least 35% of all musical selections from subcategory 33 that it broadcasts to Canadian selections.

5. a) The licensee shall broadcast the following announcement three times a day, distributed in a reasonable manner between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m., for five consecutive business days within the 14-day period following 1 September 2018, the beginning of the new licence term:

Radio frequencies are a limited public resource. Holding a broadcasting licence is a privilege, and broadcasters are required to abide by a number of regulations and conditions of licence in order to operate a radio station. In Broadcasting Decision 2018-168, the CRTC determined that this station is in non-compliance with the *Radio Regulations, 1986*. The instances of non-compliance are a recurring issue. CJWI has put measures in place to ensure that the instances of non-compliance in question do not reoccur.

- b) The licensee shall provide to the Commission the audio recordings for the broadcast days during which the announcement was broadcast, and file a completed and signed *Attestation as to the broadcast of the non-compliance announcement*, set out in Appendix 2 to *CJWI Montréal – Licence renewal and issuance of mandatory orders on CJWI Montréal*, Broadcasting Decision 2018-168, by no later than 14 days following the final broadcast of the announcement.

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.

Appendix 2 to Broadcasting Decision CRTC 2018-168

Attestation as to the broadcast of the non-compliance announcement on CJWI Montréal

In regard to the requirements set out in condition of licence 5 in Appendix 1 to *CJWI Montréal – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-168, 18 May 2018, I, _____ (NAME), on behalf of _____ (LICENSEE), certify that the announcement regarding CJWI Montréal's non-compliance with the *Radio Regulations, 1986* was duly broadcast three times a day and distributed in a reasonable manner between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m., for five consecutive business days, within the 14-day period immediately following 1 September 2018, the beginning of the new licence term, as follows:

First date of broadcast:		Time	1:	2:	3:
Second date of broadcast:		Time	1:	2:	3:
Third date of broadcast:		Time	1:	2:	3:
Fourth date of broadcast:		Time	1:	2:	3:
Fifth date of broadcast:		Time	1:	2:	3:

Signature

Date

Appendix 3 to Broadcasting Decision CRTC 2018-168

Broadcasting Mandatory Order CRTC 2018-169

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders CPAM Radio Union.com inc., licensee of CJWI Montréal, to comply at all times during the term of the licence granted in *CJWI Montréal – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-168, 18 May 2018, with the requirements set out in sections 8(1), 8(4), 8(6) and 9(3)(b) of the *Radio Regulations, 1986*, which read as follows:

8(1) Except otherwise provided under a condition of its licence, a licensee shall:

- a) keep, in a form acceptable to the Commission, a program log or a record of the matter broadcast by the licensee;
- b) retain the log or record for a period of four weeks after the date when the matter was broadcast; and
- c) cause to be entered in the log or record each day the following information:
 - (i) the date,
 - (ii) the call letters, location and frequency of the licensee's station,
 - (iii) the time at which the station identification announcement is made,
 - (iv) in relation to each program broadcast,
 - A) the title and a brief description,
 - B) subject to subsection (2), the number of the relevant content category,
 - C) the time at which the program begins and ends,
 - D) the code set out in Schedule 1 indicating the origin of the program and, if applicable, the language, type or group, and
 - E) if applicable, the code set out in the schedule identifying non-Canadian programming, and
 - (v) in relation to each commercial message, the quarter hour during which it is broadcast, its duration and the number of the relevant content subcategory.

8(4) A licensee shall furnish, to the Commission on request, its program log or record for any day, with a certificate signed by or on behalf of the licensee attesting to the accuracy of its content.

8(6) When, before the expiry of the applicable period referred to in subsection (5), the Commission requests from the licensee a clear and intelligible audio recording or exact copy of matter broadcast, the licensee shall furnish it to the Commission without delay.

9(3) At the request of the Commission, a licensee shall submit for any period specified by the Commission in its request

(b) a list of the musical selections in the order in which they are broadcast by the licensee during that period that includes the title and performer of each musical selection and a legend that identifies

(i) any Canadian musical selection,

(ii) any hit,

(iii) any instrumental selection,

(iv) any content category 3 musical selection, and

(v) the language of the musical selection, where the musical selection is not an instrumental selection.

Appendix 4 to Broadcasting Decision CRTC 2018-168

Broadcasting Mandatory Order CRTC 2018-170

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders CPAM Radio Union.com inc., licensee of CJWI Montréal, to comply at all times during the term of the licence granted in *CJWI Montréal – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-168, 18 May 2018, with the requirement set out in section 9(2) of the *Radio Regulations, 1986*, which read as follows:

9 (2) 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.

Appendix 5 to Broadcasting Decision CRTC 2018-168

Broadcasting Mandatory Order CRTC 2018-171

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders CPAM Radio Union.com inc., licensee of CJWI Montréal, to comply at all times during the term of the licence granted in *CJWI Montréal – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-168, 18 May 2018, with the requirements set out in section 9(4) of the *Radio Regulations, 1986*, which read as follows:

9(4) At the request of the Commission, a licensee shall respond to

- (a) any complaint or request for resolution of a dispute filed by any person or any request for information regarding programming originated or distributed by the licensee or regarding the licensee's technical operations, subscribership, financial affairs or ownership; and
- (b) any request for information regarding the licensee's adherence to the conditions of its licence, the Act, these Regulations, industry standards, practices or codes or any other self-regulatory mechanism of the industry.