



Broadcasting Decision CRTC 2018-172 and Broadcasting Orders CRTC 2018-173, 2018-174 and 2018-175

PDF version

Reference: 2017-223

Ottawa, 18 May 2018

Groupe Médias Pam inc.
Saint-Constant, Quebec

Public record for these applications: 2016-0606-3 and 2016-0605-5

Public hearing in the National Capital Region

7 September 2017

CJMS Saint-Constant – Licence renewal and amendment and issuance of mandatory orders

*The Commission **renews** the broadcasting licence for the French-language AM commercial radio station CJMS Saint-Constant, 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.*

Further, the Commission issues a new mandatory order requiring Groupe Médias Pam inc. (Groupe Médias) to ensure that CJMS complies at all times with section 9(2) of the Radio Regulations, 1986 and reimposes existing mandatory orders.

*The Commission **approves** the application by Groupe Médias to delete CJMS's condition of licence relating to over-and-above Canadian content development contributions.*

Applications

1. Groupe Médias Pam inc. (Groupe Médias) filed an application (2016-0606-3) to renew the broadcasting licence for the French-language commercial radio station CJMS Saint-Constant, Quebec, which expires on 31 August 2018.¹
2. Groupe Médias also filed a separate application (2016-0605-5) to amend this licence to delete the condition of licence requiring it to make an annual contribution of \$500 to Canadian content development (CCD), in addition to the basic annual contribution.

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

Interventions and reply

3. The Commission received interventions opposing the renewal application from two individuals. The two interveners raised concerns with the licensee's repeated instances of non-compliance.
4. Groupe Médias replied that the shortcomings were due to technical matters that were not well understood by its staff and that a new employee had been hired to fulfill the Commission's requirements.

Commission's analysis and decisions

5. After examining the public record for these applications in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
 - the instances of non-compliance of CJMS; and
 - the condition of licence with respect to CCD contributions.

Non-compliance

6. In Broadcasting Decision 2014-641, the Commission issued two broadcasting orders: one relating to the filing of audio recordings (Broadcasting Order 2014-642) and the other relating to the filing of information at the Commission's request (Broadcasting Order 2014-643).
7. 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 the following condition of licence:
 - section 9(2) relating to the filing of complete annual returns by no later than 30 November of each year, which includes the obligation to file 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 regulatory obligations;
 - section 8(6) relating to the requirement to provide the Commission with a clear and intelligible audio recording or other exact copy of all matter broadcast; and
 - condition of licence 6 relating to over-and-above CCD contributions.

Filing of annual returns

8. 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.
9. 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.
10. According to the Commission’s records, CJMS’s annual return for the 2013-2014 broadcast year was not filed. The annual return for the 2015-2016 broadcast year was filed on time but was incomplete as the financial statements and Form 1411 were filed on 23 March 2017, almost four months late.
11. The licensee submitted 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.
12. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations.

Commission request for information – Broadcasting Order 2014-643

13. Section 9(4) of the Regulations requires licensees to provide information regarding their adherence to regulatory requirements.
14. In a letter dated 3 March 2016, the Commission asked the licensee to provide audio recordings and related information concerning the programming broadcast by CJMS during the week of 21 to 27 February 2016. This letter remains unanswered, despite several reminders.
15. In light of the above, the Commission finds the licensee in non-compliance with section 9(4) of the Regulations. The Commission also finds the licensee in non-compliance with Broadcasting Order 2014-643.

Filing of audio recordings – Broadcasting Order 2014-642

16. As set out in section 8(6) of the Regulations, licensees must provide without delay, upon Commission request, clear and intelligible audio recordings or other exact copy of matter broadcast. In Broadcasting Order 2014-642, the Commission ordered Groupe Médias to comply at all times with this requirement.

17. The person in charge of filing the required information is convinced that he replied to the Commission's request and that he provided the audio recordings in November 2016. However, he could not provide proof to this effect. The licensee indicated that the new authorized representative will actively follow up on all subsequent requests.
18. In light of the above, the Commission finds the licensee in non-compliance with section 8(6) of the Regulations. The Commission also finds the licensee in non-compliance with Broadcasting Order 2014-642.

Condition of licence 6

19. In Broadcasting Decision 2014-641, the Commission imposed a condition of licence requiring Groupe Médias to make an over-and-above annual contribution of \$500 to CCD.
20. In the context of this licence renewal application for the operation of CJMS, the licensee filed proof that payments were made in a timely manner.
21. In light of the above, the Commission finds the licensee in compliance with condition of licence 6 relating to over-and-above CCD contributions.

Regulatory measures

22. 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.
23. The Commission also specified that the sanctions could include short-term licence renewal, the imposition of conditions of licence or mandatory orders, or the non-renewal, suspension or revocation of the licence.
24. The licensee proposed measures to ensure compliance in the future. However, the Commission remains concerned that CJMS continues to be in severe and recurring non-compliance and that this is the fifth consecutive licence term in which the station has been found in non-compliance with regulatory requirements. However, given that Groupe Médias is in its first licence term as the licensee for CJMS,² the Commission finds it appropriate to renew the licence for CJMS Saint-Constant for a short-term period of two years.
25. The Commission also 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

² The Commission approved an application by Groupe Médias to acquire the assets of CJMS in Broadcasting Decision 2014-641.

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, as well as a completed and signed *Attestation as to the broadcast of the non-compliance announcement on CJMS Saint-Constant*, 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.

26. In light of all the above, the Commission **renews** the broadcasting licence for the French-language commercial AM radio programming undertaking CJMS Saint-Constant 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.
27. In addition, pursuant to section 12(2) of the *Broadcasting Act* (the Act), the Commission reimposes existing mandatory orders requiring Groupe Médias to ensure that CJMS complies at all times with the following:
 - section 9(4) of the Regulations relating to the filing of information upon Commission request; and
 - section 8(6) of the Regulations relating to the filing of audio recordings.
28. Compliance with the deadlines for the filing of complete annual returns is important because it enables the Commission to monitor a licensee's performance and compliance with the Regulations and its conditions of licence. Accordingly, the Commission considers the late or incomplete filing of annual returns a serious matter.
29. Therefore, pursuant to section 12(2) of the Act, the Commission also issues a mandatory order requiring Groupe Médias Pam inc. to comply at all times with section 9(2) of the Regulations relating to the filing of annual returns.
30. The mandatory orders requiring compliance with the above-noted sections of the Regulations are set out in Appendices 4, 5 and 6 of this decision.
31. 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.
32. Finally, the Commission considers the recurring nature of the non-compliance, as well as the non-compliance with the mandatory orders, to be clearly indicative of the licensee's unwillingness to operate the station in a compliant manner. The Commission is concerned with the licensee's ability to continue to operate this station. 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.

Deletion of the condition of licence relating to Canadian content development

33. Groupe Médias filed a separate application to delete CJMS's condition of licence 6 relating to over-and-above CCD contributions, which is set out in Broadcasting Decision 2014-641.
34. Groupe Médias filed sufficient evidence to confirm the timely payments of the annual contribution of \$500 to CCD required by this condition of licence. The Commission considers that the licensee is in compliance with condition of licence 6 and that the condition is no longer required.
35. Accordingly, the Commission **approves** the application to amend the broadcasting licence by deleting condition of licence 6.

Reminders

36. Licensees are responsible for filing complete annual returns on time, including the financial returns. 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.
37. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. The submission of complete and accurate audio recordings and program logs 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 program 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.
38. 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

- *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
- *CJMS-AM Saint-Constant – Acquisition of assets, licence renewal and maintaining of broadcasting orders*, Broadcasting Decision CRTC 2014-641 and Broadcasting Orders CRTC 2014-642 and 2014-643, 11 December 2014
- *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 2018-172

Terms, conditions of licence and encouragement for the French-language commercial AM radio programming undertaking CJMS Saint-Constant, Quebec

Term

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 AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as well as the conditions set out in the broadcasting licence for the undertaking.
2. 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), the licensee shall:
 - a. devote, in each broadcast week, at least 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 a Friday of the same week, at least 40% of its musical selections from content category 2 to Canadian selections broadcast in their entirety.

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

3. If the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee shall adhere to the guidelines set out in sections III.B.2.a) and IV of that notice concerning the provision of balance and ethics in religious programming.
4. The licensee shall comply with the code of ethics for CJMS set out in Appendix 3 to *CJMS Saint-Constant – Licence renewal and amendment and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-172, 18 May 2018.
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 immediately 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 2018-172, the CRTC determined that this station is in non-compliance with the *Radio Regulations, 1986*. The instances of non-compliance are a recurring issue. CJMS has put measures in place to ensure that the non-compliances in question does 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 on CJMS Saint-Constant*, which is set out in Appendix 2 to *CJMS Saint-Constant – Licence renewal and amendment and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-172, 18 May 2018, 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 2018-172

Attestation as to the broadcast of the non-compliance announcement on CJMS Saint-Constant

In regard to the requirements set out in condition of licence 6 in Appendix 1 to *CJMS Saint-Constant – Licence renewal and amendment and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-172, 18 May 2018, I _____ (NAME) on behalf of _____ (LICENSEE), certify that the announcement regarding CJMS Saint-Constant'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 beginning 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 2018-172

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 at all times 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.

Appendix 4 to Broadcasting Decision CRTC 2018-172

Broadcasting Mandatory Order CRTC 2018-173

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders Groupe Médias Pam inc., licensee of CJMS Saint-Constant, to comply at all times during the term of the licence granted *CJMS Saint-Constant – Licence renewal and amendment and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-172, 18 May 2018, with the requirements set out in sections 8(1), 8(5) and 8(6) 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(5) A licensee shall retain a clear and intelligible audio recording or other exact copy of all matter broadcast

- a) for four weeks from the date of the broadcast; or
- b) where the Commission receives a complaint from any person regarding the matter broadcast or for any other reason wishes to investigate it and so notifies the licensee before the expiration of the period referred to in paragraph (a), for eight weeks from the date of the broadcast.

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.

Appendix 5 to Broadcasting Decision CRTC 2018-172

Broadcasting Mandatory Order CRTC 2018-174

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders Groupe Médias Pam inc., licensee of CJMS Saint-Constant, to comply at all times during the term of the licence granted in *CJMS Saint-Constant – Licence renewal and amendment and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-172, 18 May 2018, with the requirements set out in section 9(4) of the *Radio Regulations, 1986*, which reads as follows:

- 9(4) At the request of the Commission, the licensee shall respond to
- a) any complaint or request regarding the 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.

Appendix 6 to Broadcasting Decision CRTC 2018-172

Broadcasting Mandatory Order CRTC 2018-175

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders Groupe Médias Pam inc., licensee of CJMS Saint-Constant, to comply at all times during the term of the licence granted in *CJMS Saint-Constant – Licence renewal and amendment and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-172, 18 May 2018, with the requirement set out in section 9(2) of the *Radio Regulations, 1986*, which reads as follows:

9(2) On or before November 30 of each year, the 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.