



Broadcasting Decision CRTC 2018-298

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Reference: Part 1 licence renewal application posted on 23 February 2018

Ottawa, 21 August 2018

Cogeco Media Inc.
Sherbrooke, Quebec

Public record for this application: 2017-0827-3

CKOY-FM Sherbrooke – Licence renewal

*The Commission **renews** the broadcasting licence for the French-language specialty commercial radio station CKOY-FM Sherbrooke, Quebec, from 1 September 2018 to 31 August 2024.*

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

Application

1. Cogeco Media Inc. (Cogeco) filed an application to renew the broadcasting licence for the French-language specialty commercial radio station CKOY-FM Sherbrooke, Quebec, which expires 31 August 2018. The Commission did not receive any interventions regarding this application.

Background

2. In Broadcasting Decision 2009-525, the Commission renewed CKOY-FM's licence (formerly CHLT-FM) on a short-term basis because of the licensee's non-compliance with respect to the broadcast of French-language vocal music. In Broadcasting Decision 2013-717, CKOY-FM's licence was once again renewed on a short-term basis, this time for non-compliance with regard to the filing of annual returns and contributions to Canadian content development.

Non-compliance

Local programming

3. CKOY-FM's condition of licence 4 set out in the appendix to Broadcasting Decision 2013-717 reads as follows:

In each broadcast week, the licensee shall broadcast at least 50 hours of local programming.

4. In Broadcasting Public Notice 2006-158, the Commission defined local programming as follows:

Local programming includes programming that originates with the station or is produced separately and exclusively for the station. *It does not include programming received from another station and rebroadcast simultaneously or at a later time*; nor does it include network or syndicated programming that is five minutes or longer unless it is produced either by the station or in the local community by arrangement with the station. (*Emphasis added*)

In their local programming, licensees must include spoken word material of direct and particular relevance to the community served, such as local news, weather and sports, and the promotion of local events and activities.

5. The Commission reviewed the programming broadcast on CKOY-FM during the week of 2 to 8 October 2016. According to the performance review for that week, the licensee broadcast only 48 hours of local programming. However, the licensee is subject to a condition of licence which states that, in each broadcast week, it must broadcast at least 50 hours of local programming. Given the foregoing, the Commission finds that the licensee is in non-compliance with its condition of licence 4 with regard to local programming.

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. The licensee explained its non-compliance by the fact that Jacques Chapdelaine was promoted to interim head coach of the Alouettes Canadian football team. Since Mr. Chapdelaine was from Sherbrooke, and he became the first Quebecer and Francophone to head the Alouettes since 1962, CKOY-FM's listeners requested the broadcast of the first game with him at the helm of the Alouettes. The licensee therefore considered that broadcasting this program was of direct and particular relevance to CKOY-FM listeners.
8. The Commission notes that games broadcast on CKOY-FM are produced by its affiliated station CHMP-FM Longueuil. Although the Commission recognizes that the broadcast of this program was of direct and particular relevance to CKOY-FM listeners, the programming was not produced exclusively for CKOY-FM. Consequently, the Commission finds that the programming does not meet the definition of local programming.
9. The Commission notes that the broadcast of this program was not part of the station's weekly programming schedule and that it brought the station's local

weekly programming under the 50-hour threshold. However, the Commission considers that the circumstances leading to the broadcast of this game arose from an exceptional and non-recurring situation. Moreover, other than this non-compliance, CKOY-FM is in compliance with all of its regulatory obligations.

10. Although the Commission recognizes the exceptional nature of the sudden change in programming, CKOY-FM is now in non-compliance for a third consecutive licence term. Accordingly, the Commission considers it appropriate to grant the station a short-term renewal of six years. This short-term licence renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.

Conclusion

11. In light of all the above, the Commission **renews** the broadcasting licence for the French-language specialty commercial radio programming undertaking CKOY-FM Sherbrooke from 1 September 2018 to 31 August 2024. The terms and **conditions of licence** are set out in the appendix to this decision.

Reminders

12. Should the licensee continue to be in non-compliance with regulatory requirements, the Commission may consider recourse to additional measures as part of the next licence renewal process, including the issuance of a mandatory order or the revocation or non-renewal of the licence.
13. Pursuant to section 22 of the *Broadcasting 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 lapse.

Employment equity

14. Because Cogeco Media Inc. is subject to the *Employment Equity Act* and files reports with the Department of Employment and Social Development, its employment equity practices are not examined by the Commission.

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
- *CKOY-FM Sherbrooke and CKOB-FM Trois-Rivières – Licence renewals*, Broadcasting Decision CRTC 2013-717, 18 December 2013
- *Various radio programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2009-525, 27 August 2009

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

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2018-298

Terms, conditions of licence and expectation for the French-language specialty commercial radio programming undertaking CKOY-FM Sherbrooke, Quebec

Terms

The licence will expire 31 August 2024.

Conditions of licence

1. The licensee shall adhere to the conditions set out in the broadcasting license for the undertaking as well as the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, with the exception of condition of licence 7.
2. The licensee shall operate the station within the Specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. The licensee shall devote at least 50% of the station's programs broadcast each broadcast week to programs drawn from content category 1 (Spoken Word).
4. In each broadcast week, the licensee shall broadcast at least 50 hours of local programming.
5. In each broadcast week, the licensee shall broadcast at least 24 hours and 46 minutes of spoken word programming.
6. In each broadcast week, the licensee shall broadcast at least 4 hours and 20 minutes of news programming.

Expectation

Cultural diversity

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.