



Broadcasting Decision CRTC 2018-449

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References: 2018-128 and 2018-128-1

Ottawa, 3 December 2018

Radio communautaire Intergénération Jardin du Québec, CHOC-FM Saint-Rémi, Quebec

*Public record for this application: 2017-1031-9
Public hearing in the National Capital Region
19 June 2018*

CHOC-FM Saint-Rémi – Non-renewal of licence

*The Commission **will not renew** the broadcasting licence for the French-language community radio station CHOC-FM Saint-Rémi, Quebec. Consequently, the licence will expire on 31 December 2018.*

Application

1. Radio communautaire Intergénération Jardin du Québec, CHOC-FM (Radio Intergénération) filed an application to renew the broadcasting licence for the French-language community radio station CHOC-FM Saint-Rémi, Quebec, which expires 31 December 2018.¹ The Commission received interventions in support of this application.

Background

2. During the last licence renewal for CHOC-FM in Broadcasting Decision 2013-454, the Commission renewed the broadcasting licence for a short-term period of five years due to the licensee's non-compliance with section 9(2) of the *Radio Regulations, 1986* (the Regulations) relating to the filing of annual returns.

Non-compliance

3. In Broadcasting Notice of Consultation 2018-128 (the Notice), the Commission indicated that for the current licence term, the licensee is in apparent non-compliance with the following sections of the Regulations:
 - section 9(2) relating to the filing of annual returns by no later than 30 November of each year for the 2013-2014, 2014-2015 and 2016-2017 broadcast years;

¹ In Broadcasting Decision 2018-244, the licence for CHOC-FM was administratively renewed from 1 September 2018 to 31 December 2018.

- sections 8(1), 8(4) and 9(3)(b) relating to the filing of complete and accurate monitoring materials the requirement for the 13 to 19 November 2016 broadcast week; and
 - section 9(4) relating to the requirement to respond to Commission requests for information.
4. In the Notice, the Commission called Radio Intergénération to appear at a public hearing to examine its renewal application and to discuss the various instances of apparent non-compliance relating to the above-mentioned sections of the Regulations. The Commission indicated that it expected Radio Intergénération to demonstrate why the Commission should not impose orders requiring the licensee to adhere to the Regulations and why the Commission should not suspend or revoke the licence for CHOC-FM pursuant to sections 9 and 24 of the *Broadcasting Act* (the Act).
 5. In addition, in light of the information provided by the licensee during this proceeding, the licensee is also in apparent non-compliance with section 16(3) of the Regulations relating to the implementation of the National Public Alerting System (NPAS) by no later than 31 March 2016.

Filing of annual returns

6. Section 9(2) of the Regulations requires radio station licensees to file annual returns, including financial statements, on or before 30 November of each year, for the broadcast year ending the previous 31 August. Details on the specific filing requirements for annual returns are set out in Broadcasting Information Bulletin 2011-795.
7. According to Commission records, Radio Intergénération filed CHOC-FM's annual returns late for the 2013-2014, 2014-2015 and 2016-2017 broadcast years, specifically, on 19 April 2016, 22 April 2016 and 26 March 2018, respectively.
8. Radio Intergénération indicated that the station had been experiencing financial and technical difficulties for several years and that this had a direct impact on the station's management and administration. The new general manager of CHOC-FM, Mr. Serge Paquin, who was hired in March 2018, specified that the President and members of the Board of Directors had never been informed of the non-compliance surrounding the annual returns. He also noted his extensive background in broadcasting and stated that he would ensure the station's compliance in the future. In addition, Mr. Paquin also indicated that a checklist has been created and that an item has been added on the agenda to ensure the Commission's regulatory requirements are met.
9. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations for the 2013-2014, 2014-2015 and 2016-2017 broadcast years.

Filing of radio monitoring materials

10. Sections 8(1) through 8(6) of the Regulations set out requirements relating to keeping, retaining and furnishing to the Commission program logs with an attestation as to their accuracy, and recordings. 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.
11. As indicated in a letter to the licensee dated 10 March 2017, Commission staff conducted a preliminary review of the documents that the licensee had provided for the compliance evaluation for the broadcast week of 13 to 19 November 2016. The Commission noted that the submission did not include all the information in the requested formats. Specifically, the program log provided by Radio Intergénération did not include all the information required pursuant to section 8(1) of the Regulations. In addition, the licensee did not submit the following:
 - a certificate attesting to the accuracy of the content of its program log signed by a station representative, as required pursuant to section 8(4) of the Regulations; and
 - a list of musical selections in the order they were broadcast, with the title and artist for each selection, and a legend including a variety of required information, as required pursuant to section 9(3)(b) of the Regulations.
12. The licensee was given until 31 March 2017 to submit the missing information and documents to the Commission. Given that the licensee did not submit what was required, the Commission was unable to monitor the programming of CHOC-FM.
13. In a letter received by the Commission on 1 February 2018, the station's former general manager explained that he did not submit the missing documents required by the Commission due to a lack of resources and because the station's automated programming system could not print program logs.
14. At the hearing, the new general manager confirmed that the automated programming system was functional and in compliance with Commission requirements, and that the system allowed the extraction of all information needed. He also indicated that for future requests for monitoring material, he will ensure that logs, musical selections and reports are submitted in a complete, timely and professional manner.
15. In light of the above, the Commission finds the licensee in non-compliance with sections 8(1), 8(4) and 9(3)(b) of the Regulations for the 13 to 19 November 2016 broadcast week.

Commission requests for information

16. Section 9(4) of the Regulations requires licensees to respond to any Commission requests for information relating to adherence to regulatory requirements.

17. As noted in the section above, in the letter dated 10 March 2017, the Commission asked the licensee to file the missing information and documents required for the compliance evaluation by no later than 31 March 2017. Radio Intergénération did not submit what was required.
18. Further, in a letter dated 22 September 2017, the Commission asked the licensee to explain the circumstances leading to the absence of confirmation, in writing, of its intention to renew the broadcasting licence for CHOC-FM before the 31 August 2017 deadline. The licensee then filed its renewal application but did not respond to that letter.
19. In its reply relating to these two situations of apparent non-compliance, Radio Intergénération indicated in the letter received by the Commission on 1 February 2018 that the non-compliance stemmed from a lack of staff due to the financial and technical issues at the station.
20. However, at the hearing, Radio Intergénération agreed to submit the information requested by the Commission regarding the NPAS by 26 June 2018, specifically, the installation date for the NPAS and, if applicable, the circumstances explaining the delay in its installation. The licensee did not submit any information in this regard to the Commission and as such did not fulfill this undertaking.
21. In light of the above, the Commission finds the licensee in non-compliance with section 9(4) of the Regulations.

National Public Alerting System

22. Pursuant to section 16(3) of the Regulations, licensees of community radio stations were required to implement a public alerting system by 31 March 2016. According to the information provided by the licensee during the present proceeding, Radio Intergénération installed the NPAS in the summer of 2016. However, as mentioned above, the licensee did not fulfill its undertaking to specify the exact installation date of the NPAS and, if applicable, to explain the reason for the delay.
23. In light of the above, the Commission finds the licensee in non-compliance with section 16(3) of the Regulations relating to the implementation of the NPAS by no later than 31 March 2016.

Regulatory measures

24. 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.

25. The Commission also specified that sanctions could include a short-term licence renewal, the imposition of conditions of licence or mandatory orders, or the non-renewal, suspension or revocation of the licence.
26. In the case of CHOC-FM, the instances of non-compliance for which the licensee appeared at the hearing are very serious. Further, this is the second licence term during which Radio Intergénération has been in non-compliance with regulatory requirements.
27. The Commission emphasizes the importance it places on the fulfillment of the requirements set out in the Act, the Regulations and licensees' conditions of licence.

Closure of CHOC-FM

28. On 3 August 2018, the Commission received a press release sent by Mr. Serge Paquin, the general manager of CHOC-FM, indicating that the station would cease its operations on 6 August 2018. The Commission notes that after the cessation of the station's operations, the licensee filed an assignment in bankruptcy with the Superior Court of Quebec (see file No. 505-11-015408-185).
29. Given that the station has ceased operations and that the licensee has initiated bankruptcy proceedings by filing a declaration of insolvency and transfer and surrender of its assets on 6 September 2018, the Commission is not satisfied that it is in the interest of the broadcasting system to renew the licence for CHOC-FM.
30. In light of all of the above, the Commission **will not renew** the broadcasting licence for the French-language community radio programming undertaking CHOC-FM Saint-Rémi. Consequently, the licence will expire on 31 December 2018.
31. The Commission invites all interested parties to file an application to obtain a broadcasting licence to operate a radio station to serve the local community of Saint-Rémi. All applications received will be assessed on their own merits.

Secretary General

Related documents

- *Administrative renewals*, Broadcasting Decision CRTC 2018-244, 16 July 2018
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2018-128, 18 April 2018
- *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 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014

- *Campus and community radio programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-454, 29 August 2013
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011