



# Broadcasting Decision CRTC 2018-468 and Broadcasting Orders CRTC 2018-469, 2018-470, 2018-471, 2018-472, 2018-473 and 2018-474

PDF version

References: 2018-128 and 2018-128-1

Ottawa, 14 December 2018

**La radio communautaire du comté**  
Rimouski and Mont-Joli, Quebec

*Public record for this application: 2017-0929-7*  
*Public hearing in the National Capital Region*  
*19 June 2018*

## **CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders**

*The Commission **renews** the broadcasting licence for the French-language community radio station CKMN-FM Rimouski/Mont-Joli, Quebec, from 1 January 2019 to 31 August 2020. This short-term renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.*

*In addition, the Commission issues mandatory orders requiring La radio communautaire du comté to comply at all times within the licence term for its station CKMN-FM with sections 8(1), 8(2), 8(5), 8(6), 9(2) and 9(3)(b) of the Radio Regulations, 1986.*

### **Application**

1. La radio communautaire du comté (La Radio) filed an application to renew the broadcasting licence for the French-language community radio programming undertaking CKMN-FM Rimouski/Mont-Joli, Quebec, which expires 31 December 2018.<sup>1</sup>
2. La Radio is a not-for-profit corporation controlled by its board of directors.
3. The Commission did not receive any interventions regarding this application.<sup>2</sup>

---

<sup>1</sup> The broadcasting licence for CKMN-FM was renewed administratively from 1 September 2018 to 31 December 2018 in Broadcasting Decision 2018-244.

<sup>2</sup> At the beginning of the hearing, the licensee filed a document comprising approximately 40 letters in support of the renewal of CKMN-FM. Since Broadcasting Notice of Consultation 2018-128 specified that the intervention period ended on 18 May 2018 and to maintain impartiality among the licensees that

## Background

4. In Broadcasting Decision 2005-263, the Commission renewed the broadcasting licence for CKMN-FM for a short-term period of four years since it determined that the licensee, La Radio, was in non-compliance with sections 8(5), 8(6) and 9(3) of the *Radio Regulations, 1986* (the Regulations) regarding the retention and filing of recordings and music lists.
5. Subsequently, in Broadcasting Decision 2011-544 and Broadcasting Order 2011-545,<sup>3</sup> which followed an appearing hearing, the Commission again renewed CKMN-FM's broadcasting licence for a short-term period of four years since it determined that La Radio was in non-compliance with section 9(2) of the Regulations with respect to the requirement to file an annual return for every year. The Commission also issued a mandatory order requiring La Radio to comply at all times within its licence term for CKMN-FM with the requirements set out in section 9(2) of the Regulations.
6. More recently, in Broadcasting Decision 2015-346 and Broadcasting Order 2015-347, the Commission renewed CKMN-FM's broadcasting licence for a short-term period of three years since it determined that La Radio was in non-compliance with Broadcasting Order 2011-545, which was issued during its last licence renewal, as well as section 9(2) of the Regulations. Consequently, the Commission considered that the mandatory order issued to La Radio for CKMN-FM concerning the requirements set out in section 9(2) should be renewed for a second consecutive licence term.

## Non-compliance

7. In Broadcasting Notice of Consultation 2018-128 (the Notice), the Commission stated that the licensee was in apparent non-compliance with the following sections of the Regulations, as well as Broadcasting Order 2015-347, during the current licence term:
  - section 9(2) with respect to the filing of annual returns by 30 November of each year for the 2015-2016 broadcasting year;
  - sections 8(1), 8(2), 8(5), 8(6) and 9(3)(b) with respect to the filing of complete and accurate radio monitoring materials for the broadcast week of 13-19 November 2016; and

---

participated in that hearing, the Commission has decided not to place this document on the public record and will not consider it in its final determination.

<sup>3</sup> The broadcasting licence for CKMN-FM was renewed administratively from 1 September 2009 to 31 August 2011 in Broadcasting Decision 2009-334.

- section 9(4) with respect to the requirement to file all relevant information at the Commission's request.
8. In the Notice, the Commission called the licensee to a public hearing on 19 June 2018<sup>4</sup> in Gatineau, Quebec, to discuss these serious and in some cases repeated instances of apparent non-compliance. The Commission indicated at the hearing that the licensee was required to demonstrate the reasons why the Commission should renew CKMN-FM's licence and should not issue mandatory orders requiring the licensee to comply with the Regulations and its conditions of licence, as well as the reasons why its licence should not be suspended or revoked under sections 9 and 24 of the *Broadcasting Act* (the Act).

### **Filing of annual returns**

9. 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.
10. Further, in Broadcasting Decision 2015-346 and Broadcasting Order 2015-347, the Commission reimposed a mandatory order requiring the licensee to comply at all times with the requirements set out in section 9(2) of the Regulations regarding the filing of annual returns.
11. According to Commission records, the annual return for the 2015-2016 broadcast year was filed on time, but was incomplete, while the financial statements were filed 13 months late, after the Commission brought this matter to the licensee's attention as part of the current proceeding.
12. In a 1 December 2017 letter, the Commission asked the licensee to explain the reasons for this instance of apparent non-compliance. In its response dated 12 December 2017, the licensee indicated that the other annual returns required for this period were filed on time and attributed this situation to an oversight. Moreover, it set out the corrective measures that it had put in place, such as holding the annual meeting three rather than six months following the end of the fiscal year and creating a management document that outlines the regulatory obligations, including the associated responsibilities and various deadlines for meeting these regulatory obligations. In addition, following a recommendation by the Association des radiodiffuseurs communautaires du Québec (ARCQ), the licensee's board of directors approved a resolution mandating its secretary to ensure all follow-ups with the Commission in the future.

---

<sup>4</sup> In Broadcasting Notice of Consultation 2018-128-1, the Commission announced that the hearing had been moved from 18 June to 19 June 2018.

13. In light of the above, the Commission finds the licensee in non-compliance with section 9(2) of the Regulations and Broadcasting Order 2015-347.

### **Radio monitoring materials**

14. Sections 8(1), 8(2), 8(5) and 8(6) of the Regulations set out requirements relating to the retention and filing with the Commission of program logs and audio recordings of the materials broadcast. Section 9(3)(b) of the Regulations sets out the information on the musical selections that the licensee must include in its list of musical selections for any period specified by the Commission.
15. According to Commission records, the licensee submitted the radio monitoring materials requested for the broadcast week of 13-19 November 2016 one month late. In addition, the program log and music list did not include all of the required information and was not in the required format. Finally, the licensee did not file audio recordings of all the material broadcast on the station during the broadcast week of 13-19 November 2016. Specifically, 11 hours of audio recordings were missing, and some passages were neither clear nor intelligible.
16. The licensee claimed that these instances of non-compliance resulted from the change from Dalet automation software to WinMedia three days before the start of the evaluation period. In addition, it stated that employees and volunteers had received only a short two-day training session.
17. In a letter dated 5 April 2017, the licensee informed the Commission that it had taken a series of measures to ensure its future compliance, including the purchase of new automation software, more advanced training for the station's staff, training tailored to volunteers and the keeping of a management document. The licensee also discussed these measures during the hearing and confirmed that it would conduct spot checks of the program logs approximately twice per week. Finally, during the hearing, the licensee, accompanied by a member of the ARCQ, confirmed that it is working with the ARCQ to produce logs that meet all of the Commission's requirements.
18. Based on the foregoing, the Commission finds the licensee in non-compliance with sections 8(1), 8(2), 8(5), 8(6) and 9(3)(b) of the Regulations.

### **Requests for information from the Commission**

19. Section 9(4) of the Regulations requires licensees to respond to any request relating to compliance with regulatory requirements.
20. In the Notice, the Commission noted an instance of apparent non-compliance with section 9(4) of the Regulations. Subsequent discussions with the licensee confirmed that the licensee had responded to all of the Commission's requests.
21. In light of the above, the Commission finds the licensee in compliance with section 9(4) of the Regulations.

## 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. In that information bulletin, the Commission also noted that depending on the nature of the non-compliance and on a case-by-case basis, it may apply measures including a short-term licence renewal, the imposition of conditions of licence or mandatory orders, or the non-renewal, suspension or revocation of the licence.
24. In this instance, the Commission is faced with a very serious case of non-compliance, given the repeated instances of non-compliance with section 9(2) of the Regulations and Broadcasting Orders 2011-545 and 2015-347. In effect, there are instances of non-compliance with this section in the current licence term, which makes it the third consecutive licence term in which the licensee has not adhered to this requirement. Moreover, these instances of non-compliance are even more severe given that the Commission required the licensee via broadcasting orders to comply with this section during the last two licence terms.
25. The licensee proposed a number of corrective measures. In this regard, the Commission is of the view that the investment in new automation software, more advanced training for staff and management and the keeping of a management document will allow the station to comply with the regulatory obligations regarding monitoring materials and the requirement to file complete annual returns before 30 November of each year.
26. The Commission notes that during the hearing the licensee recognized the seriousness of its circumstances and expressed an understanding of its regulatory responsibilities. Further, it specified that it would work alongside the ARCQ to meet its regulatory requirements in the future.
27. The Commission remains concerned by the fact that CKMN-FM is in non-compliance for a fourth consecutive licence term. The Commission is of the view that the instances of non-compliance are of a serious and recurring nature. However, the Commission recognizes that the licensee has put in place measures to ensure its compliance in the future, that it is working alongside the ARCQ to develop solutions in that regard and that CKMN-FM remains the only community station serving the Rimouski/Mont-Joli market.
28. In light of the preceding, the Commission finds it appropriate to renew the licence for CKMN-FM for a shortened term of two years (until 31 August 2020). This short-term renewal will allow for an earlier review of the licensee's compliance with its

regulatory requirements. The licensee shall adhere to the **conditions of licence** set out in Appendix 1 to this decision.

29. The Commission **directs** the applicant to file a dated and executed copy of its bylaws by no later than **14 January 2019**.
30. The Commission also considers it appropriate to require the licensee to once again broadcast an announcement regarding its non-compliance, once a day for five consecutive business days within the 15- to 30-day period following the beginning of the new licence term, namely from 16 January 2019 to 31 January 2019. To confirm compliance with this requirement, the licensee must file with the Commission 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 CKMN-FM Rimouski/Mont-Joli*, 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.
31. The Commission questioned the licensee during the hearing about its understanding of what constitutes a mandatory order, as well as its importance in legal terms. It responded that it understands the legal significance and the necessity to comply with all orders. However, despite the licensee's awareness and its desire to operate the station in accordance with its regulatory obligations, for the reasons noted earlier the Commission is of the view that it should issue mandatory orders under section 12(2) of the Act requiring La Radio complies at all times with the following provisions:
  - sections 8(1), 8(2), 8(5), 8(6) and 9(3)(b) of the Regulations with respect to the keeping and filing of complete program logs, clear and intelligible audio recordings or any other true copy of the broadcast material, as well as proper lists of musical selections; and
  - section 9(2) of the Regulations with respect to the filing of complete annual returns.
32. The orders requiring compliance with the above-mentioned sections of the Regulations are set out in Appendices 3, 4, 5, 6, 7 and 8 to this decision.
33. During the clarification process, the licensee indicated that it would agree to the reading of the non-compliance text on-air, the issuance of mandatory orders and a short-term licence renewal. In addition, pursuant to section 13 of the Act, the orders will be filed with the Federal Court and will be treated as orders of that court.
34. Finally, given the recurrence of the licensee's non-compliance over several licence terms, 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

35. Licensees of radio stations must comply at all times with the requirements set out in the Act, the Regulations and their conditions of licence.
36. Licensees are responsible for filing complete annual reports on time, including financial statements. In addition, as set out in Broadcast 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 filing of complete and accurate program logs, music lists and recordings allows the Commission to analyze licensees' programming to assess their compliance with the Regulations and their conditions of licence. The retention of these logs and recordings also allows the Commission to review a station's programming in the event of a complaint. As a result, failure to file the required documentation on time or at all significantly affects the Commission's ability to independently confirm a licensee's compliance with regulatory requirements. These filings also become important indicators of whether a licensee has the willingness, ability and necessary knowledge to bring itself into compliance and maintain such compliance.
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

- *Administrative renewals*, Broadcasting Decision 2018-244, 16 July 2018
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2018-128, 18 April 2018
- *CKMN-FM Rimouski/Mont-Joli – Licence renewal and reimposition of a broadcasting order*, Broadcasting Decision CRTC 2015-346 and Broadcasting Order CRTC 2015-347, 29 July 2015
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Filing annual returns for radio programming undertakings*, Broadcasting Information Bulletin CRTC 2011-795, 20 December 2011

- *CKMN-FM Rimouski and Mont-Joli – Licence renewal and issuance of a mandatory order*, Broadcasting Decision CRTC 2011-544 and Broadcasting Order CRTC 2011-545, 31 August 2011
- *Various community and campus radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2009-334, 9 June 2009
- *CKMN-FM Rimouski and Mont-Joli – Licence renewal*, Broadcasting Decision CRTC 2005-263, 28 June 2005

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



## Appendix 1 to Broadcasting Decision CRTC 2018-468

### Terms, conditions of licence, expectation and encouragement for the French-language community radio programming undertaking CKMN-FM Rimouski/Mont-Joli, Quebec

#### Terms

The licence will take effect 1 January 2019 and will expire 31 August 2020.

#### Conditions of licence

1. The licensee shall adhere to the conditions set out in Standard conditions of licence for campus and community radio stations, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012, as well as the conditions set out in the broadcasting licence for the undertaking.
2. In regard to the licensee's non-compliance with regulatory requirements:
  - a) The licensee shall broadcast the following announcement once a day between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m., for five consecutive business days within the 15- to 30-day period immediately following the commencement of the new licence term (i.e. the period from 16 January 2019 to 31 January 2019):

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 2018-468, the CRTC determined that this station was in non-compliance with the *Radio Regulations, 1986* and Broadcasting Order 2015-347 imposed at last licence renewal. The instances of non-compliance occurred during the 2015-2016 broadcast year and are a recurring issue. CKMN-FM has put measures in place to ensure that these non-compliances do not recur.

- b) The licensee shall provide to the Commission with 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 CKMN-FM Rimouski/Mont-Joli* set out in Appendix 2 to *CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-468, 14 December 2018, by no later than 14 days following the final broadcast of the announcement.

**Expectation**

As set out in *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010, the Commission expects all community and campus radio station licensees to file yearly updates on the composition of their board of directors. These annual updates can be submitted at the time of submission of annual returns, following annual board of directors' elections or at any other time. As noted in Appendix 3 to that regulatory policy, licensees may submit such information through the Commission's website.

**Encouragement**

The Commission considers that community radio stations should be particularly sensitive to employment equity issues in order to reflect fully the communities they serve. It encourages the licensee to consider these issues in its hiring practices and in all other aspects of its management of human resources.

## Appendix 2 to Broadcasting Decision CRTC 2018-468

### Attestation as to the broadcast of the non-compliance announcement on CKMN-FM Rimouski/Mont-Joli

In regard to the requirements set out in condition of licence 2 in Appendix 1 to *CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-468, 14 December 2018, I, \_\_\_\_\_ (NAME), on behalf of \_\_\_\_\_ (LICENSEE), certify that the announcement regarding CKMN-FM Rimouski/Mont-Joli's non-compliance with its conditions of licence and with the *Radio Regulations, 1986* was duly broadcast once a day between 6 a.m. and 10 a.m. or between 4 p.m. and 6 p.m. for five consecutive business days within the 15- to 30-day period immediately following the beginning of the new licence term (i.e. the period from 16 January 2019 to 31 January 2019), as follows:

<b>First release date</b>		Broadcast time	
<b>Second release date</b>		Broadcast time	
<b>Third release date</b>		Broadcast time	
<b>Fourth release date</b>		Broadcast time	
<b>Fifth release date</b>		Broadcast time	

---

Signature

---

Date

## **Appendix 3 to Broadcasting Decision CRTC 2018-468**

### **Broadcasting Mandatory Order CRTC 2018-469**

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders La radio communautaire du comté, for its station CKMN-FM Rimouski/Mont-Joli, to comply at all times during the term of the licence granted in *CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-468, 14 December 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, 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 4 to Broadcasting Decision CRTC 2018-468

### Broadcasting Mandatory Order CRTC 2018-470

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders La radio communautaire du comté, for its station CKMN-FM Rimouski/Mont-Joli, to comply at all times during the term of the licence granted in *CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-468, 14 December 2018, with the requirements set out in section 8(1) of the *Radio Regulations, 1986*, which reads 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.

## **Appendix 5 to Broadcasting Decision CRTC 2018-468**

### **Broadcasting Mandatory Order CRTC 2018-471**

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders La radio communautaire du comté, for its station, CKMN-FM Rimouski/Mont-Joli, to comply at all times during the term of the licence granted in *CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-468, 14 December 2018, with the requirements set out in section 8(2) of the *Radio Regulations, 1986*, which reads as follows:

- 8(2) When a program falls into more than one content category, a licensee shall cause to be entered in its program log or record the numbers of the two principal content categories in descending order of their relative importance in terms of broadcast time.

## Appendix 6 to Broadcasting Decision CRTC 2018-468

### Broadcasting Mandatory Order CRTC 2018-472

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders La radio communautaire du comté, for its station CKMN-FM Rimouski/Mont-Joli, to comply at all times during the term of the licence granted in *CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-468, 14 December 2018, with the requirements set out in section 8(5) of the *Radio Regulations, 1986*, which reads as follows:

- 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.

## **Appendix 7 to Broadcasting Decision CRTC 2018-468**

### **Broadcasting Mandatory Order CRTC 2018-473**

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders La radio communautaire du comté, for its station CKMN-FM Rimouski/Mont-Joli, to comply at all times during the term of the licence granted in *CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-468, 14 December 2018, with the requirements set out in section 8(6) of the *Radio Regulations, 1986*, which reads as follows:

- 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 8 to Broadcasting Decision CRTC 2018-468

### Broadcasting Mandatory Order CRTC 2018-474

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders La radio communautaire du comté, for its station CKMN-FM Rimouski/Mont-Joli, to comply at all times during the term of the licence granted in *CKMN-FM Rimouski/Mont-Joli – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2018-468, 14 December 2018, with the requirements set out in section 9(3)(b) of the *Radio Regulations, 1986*, which reads as follows:

- 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.