



## Broadcasting Decision CRTC 2019-246

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Reference: Part 1 licence renewal application posted on 28 February 2019

Ottawa, 9 July 2019

**LE5 Communications Inc.**  
Sudbury, Ontario

*Public record for this application: 2018-0871-8*

### **CHYC-FM Sudbury – Licence renewal**

*The Commission **renews** the broadcasting licence for the French-language commercial radio station CHYC-FM Sudbury from 1 September 2019 to 31 August 2023. This short-term licence renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.*

#### **Application**

1. LE5 Communications Inc. (LE5) filed an application to renew the broadcasting licence for the French-language commercial radio station CHYC-FM Sudbury, Ontario. The Commission received interventions in support of the application.

#### **Background**

2. At CHYC-FM's last licence renewal, in Broadcasting Decision 2013-463, the Commission renewed the station's broadcasting licence for a short-term period. The licensee was in non-compliance with section 9(2) of the *Radio Regulations, 1986* (the Regulations) relating to the filing of annual returns, and with section 15 of the Regulations relating to Canadian content development contributions.

#### **Non-compliance**

3. Section 8(5) of the Regulations requires radio station licensees to retain a clear and intelligible audio recording or other exact copy of all matter broadcast.
4. Following the Commission's request for the filing of logs and recordings, LE5 indicated that its audio recording was not available as a result of a hard drive crash. The Commission notes that without these recordings, it was unable to evaluate the station's compliance with requirements relating to the broadcast of French-language vocal music and Canadian music.
5. Section 9(3) of the Regulations reads as follows:

At the request of the Commission, a licensee shall submit for any period specified by the Commission in its request:

(a) the information required by the Station Self-assessment Report set out in Schedule 2; and

(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, and

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

6. The Commission notes that the totals presented by the licensee in its reports differed from those obtained by Commission staff when counting the musical selections in the provided list. In addition, information was missing from the music list.
7. LE5 indicated that it had hired a music director to ensure compliance with broadcasting thresholds and the proper classification of titles, artists and musical selections. It also implemented a daily procedure to confirm that recordings were in fact made.
8. The licensee added that it has put into place a verification process to monitor the management of surveillance tools more closely and that it provides training in this regard to its staff.
9. Finally, it declared itself ready to take the necessary measures to prevent future non-compliance and to continue providing Franco-Ontarians with a service that meets the regulatory requirements.

### **Commission's analysis**

10. The public record demonstrates the licensee's improvement in regard to the instances of non-compliance noted during the previous licence term, and that none of these instances of non-compliance were repeated. Further, the licensee has put measures into place to rectify its current instances of non-compliance.
11. Nevertheless, the Commission finds the licensee in non-compliance with sections 8(5), 9(3)(a) and 9(3)(b) of the Regulations during the current licence term.

## Regulatory measures

12. 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.
13. 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 renewal, the imposition of conditions of licence or mandatory orders, or the non-renewal, suspension or revocation of the licence.
14. This is the second consecutive licence term in which the licensee has been in non-compliance with regulatory requirements. Failure to file audio recordings constitutes a very serious instance of non-compliance as it prevents Commission staff from verifying the station's compliance with its programming.
15. Consequently, the Commission finds it appropriate to renew the broadcasting licence for CHYC-FM for a short-term period.

## Conclusion

16. In light of the above, the Commission **renews** the broadcasting licence for the French-language commercial radio programming undertaking CHYC-FM Sudbury, Ontario from 1 September 2019 to 31 August 2023. This short-term licence renewal will allow for an earlier review of the licensee's compliance with regulatory requirements. The licensee shall adhere to the **conditions** set out in Broadcasting Regulatory Policy 2009-62, as well as to the **conditions** set out in the broadcasting licence for the undertaking.

## Reminders

17. Pursuant to section 22 of the *Broadcasting Act* (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.
18. The licensee that it must comply at all times with the requirements set out in the Act, the Regulations and its conditions of licence.
19. The Commission is charged with the supervision and regulation of the Canadian broadcasting system. The submission of complete and accurate radio monitoring materials enables the Commission to conduct an analysis of a station's programming to verify compliance with the Regulations and its conditions of licence. The retention of these radio monitoring materials 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 and complete manner or does not file

such material at all affects the ability of the Commission to adequately perform its duty to independently confirm the licensee's adherence to regulatory or licence requirements. These filings also become important indicators of whether the licensee has the willingness, ability or knowledge necessary to bring itself into compliance and maintain such compliance.

20. 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.

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
- *CHYC-FM Sudbury, and CHYK-FM Timmins and its transmitters – Licence renewals*, Broadcasting Decision CRTC 2013-463, 30 August 2013
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009

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