



Broadcasting Decision CRTC 2019-408 and Broadcasting Orders CRTC 2019-409 and 2019-410

PDF version

Reference: 2019-127

Ottawa, 11 December 2019

Radio Diffusion Sorel-Tracy inc.
Sorel-Tracy, Quebec

Public record for this application: 2018-0810-7
Public hearing in the National Capital Region
11 July 2019

CJSO-FM Sorel-Tracy – Licence renewal and issuance of mandatory orders

*The Commission **renews** the broadcasting licence for the French-language commercial radio station CJSO-FM Sorel-Tracy until 31 August 2021. This short-term renewal will allow for an earlier review of the licensee's compliance with regulatory requirements.*

Further, the Commission issues mandatory orders requiring the licensee to comply at all times with sections 9(3)(a) and 9(3)(b) of the Radio Regulations, 1986, and condition of licence 3 in this decision.

Application

1. Radio Diffusion Sorel-Tracy inc. (Radio Sorel-Tracy) filed an application to renew the broadcasting licence for the French-language commercial radio programming undertaking CJSO-FM Sorel-Tracy, Quebec, which expires on 31 December 2019.¹ The Commission did not receive any interventions regarding this application.

Background

2. In Broadcasting Decision 2010-857, the Commission renewed the broadcasting licence for CJSO-FM for four years due to the licensee's non-compliance in regard to the broadcast of French-language vocal music.
3. In Broadcasting Decision 2014-271, the Commission granted CJSO-FM a short-term renewal of three years due to the licensee's non-compliance in regard to the broadcast of Canadian music selections from content category 3 (Special Interest Music) and French-language vocal music.

¹ In Broadcasting Decision 2019-221, the Commission administratively renewed the broadcasting licence from 1 September 2019 to 31 December 2019.

4. Moreover, in Broadcasting Decision 2017-294, the Commission granted the station a short-term licence renewal of two years due to the licensee's non-compliance in regard to the submission of radio monitoring materials and participation in the National Public Alerting System (NPAS).

Non-compliance

5. In Broadcasting Notice of Consultation 2019-127, the Commission indicated that the licensee was in apparent non-compliance with the following sections of the *Radio Regulations, 1986* (the Regulations) and its condition of licence set out below:
 - section 9(3)(a) of the Regulations relating to the filing of an accurate self-assessment report;
 - section 9(3)(b) of the Regulations relating to the filing of complete and accurate music lists;
 - section 16(2) of the Regulations relating to the implementation of the NPAS; and
 - condition of licence 3a) and 3b) set out in Broadcasting Decision 2017-294 relating to the broadcast of an announcement following a failure to comply with certain regulatory obligations and to demonstrate this broadcast by filing audio recordings with the Commission.

Radio monitoring materials

6. Section 9(3)(a) of the Regulations specifies that a licensee shall submit the information required by the station self-assessment report when requested by the Commission.
7. Further, 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.
8. With respect to CJSO-FM, the Commission noted irregularities in the list of musical selections and the self-assessment report submitted by Radio Sorel-Tracy for the 10 to 16 June 2018 broadcast week. Specifically, 47 musical selections were missing. Therefore, its self-assessment report was not accurate and the lists of musical selections were incomplete.
9. The licensee indicated that, due to technical reasons, its musical selection list did not include musical selections broadcast during programs from independent producers. It added that it started to adapt its way of doing things so that the list would take into account all the musical selections under the same format.

10. In light of the above, the Commission finds the licensee in non-compliance with sections 9(3)(a) and 9(3)(b) of the Regulations.

Participation in the National Public Alerting System

11. In Broadcasting Regulatory Policy 2014-444, the Commission announced amendments to various regulations, standard conditions of licence and certain exemption orders to require the mandatory distribution of emergency alert messages by broadcasting undertakings. Section 16(2) of the Regulations required radio stations to participate in the NPAS by no later than 31 March 2015.
12. According to Commission records, on the date of filing the application, Radio Sorel-Tracy had not installed and implemented the NPAS.
13. The licensee indicated that it had taken the steps to acquire the NPAS and that the system should be installed by the end of 2019. On 12 June 2019, Radio Sorel-Tracy filed a proof of purchase with the Commission. It also specified that it would install the NPAS as soon as it was received.
14. In light of the above, the Commission finds the licensee in non-compliance with section 16(2) of the Regulations. A **condition of licence** requiring the licensee to implement the NPAS by no later than **11 March 2020** is set out in Appendix 1 to this decision. Additionally, the Commission notes that the licensee must include the NPAS system implementation date in Form 1411, which is submitted as part of its annual return.

Condition of licence 3

15. In accordance with condition of licence 3 set out in Appendix 1 to Broadcasting Decision 2017-294, the licensee was required to broadcast, within 14 days immediately following the publication of that decision, an announcement stating that the station had been found in non-compliance and that it had put in place measures to ensure that the non-compliance does not recur.
16. The licensee was also required to provide to the Commission audio recordings for the broadcast days during which the announcement was broadcast and file a completed and signed attestation to that effect by no later than 14 days following the final broadcast of the announcement.
17. According to the Commission's records, Radio Sorel-Tracy has not provided the audio recordings and the attestation. Without a recording of the announcement, the Commission is unable to confirm that the announcement was broadcast.
18. Radio Sorel-Tracy submitted that the announcement had in fact been broadcast, from 2 to 6 September 2018, three times per day. However, the failure to file the audio recordings with the Commission was the result of a lack of communication within its team. The licensee added that the station's management had made sure to distribute information received from the Commission. Moreover, it is planning to

bring all its operations together under the same roof to avoid similar errors in the future.

19. In light of the above, the Commission finds the licensee in non-compliance with the condition of licence 3 set out in the appendix to Broadcasting Decision 2017-294.

Regulatory measures

20. 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.
21. The Commission also specified in the bulletin that it may apply certain measures on a case-by case basis depending on the nature of the non-compliance, including the imposition of conditions of licence or mandatory orders, short-term licence renewal or the non-renewal, suspension or revocation of the licence.
22. The Commission notes that this is the fourth consecutive licence term in which the licensee has been found in non-compliance, and the second instance of non-compliance under the current shareholder and administrator, Laurent Cournoyer, since control of the station was transferred in 2015. Further, the non-compliances with regard to sections 9(3)(b) and 16 of the Regulations are recurring. For these reasons, the Commission considers it appropriate to renew the broadcasting licence for CJSO-FM Sorel-Tracy for a short-term period.
23. The Commission also considers it appropriate to require the licensee to broadcast an announcement regarding its non-compliance three times a day. The announcements are to be 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 following 1 January 2020, which is the beginning 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 CJSO-FM Sorel-Tracy*, 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.
24. In addition, pursuant to section 12(2) of the *Broadcasting Act* (the Act), the Commission imposes mandatory orders requiring CJSO-FM to comply with the following:
 - section 9(3)(a) of the Regulations relating to the filing of an accurate self-assessment report;

- section 9(3)(b) of the Regulations relating to the filing of complete and accurate music lists;
 - the new condition of licence 3 requiring the broadcast of an announcement, set out in Appendix 1 to this decision.
25. The mandatory orders regarding compliance with the above-noted sections of the Regulations and condition of licence are set out in Appendices 3 and 4 of this decision. Pursuant to section 13 of the Act, the orders will be filed with the Federal Court and will become orders of that court.

Conclusion

26. In light of all of the above, the Commission **renews** the broadcasting licence for the French-language commercial programming undertaking CJSO-FM Sorel-Tracy from 1 January 2020 to 31 August 2021. This short-term renewal will allow for an earlier review of the licensee's compliance with regulatory requirements. The terms and **conditions of licence** are set out in Appendix 1 to this decision.

Reminders

27. The licensee must comply at all times with the requirements set out in the Act, the Regulations and its conditions of licence.
28. 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 regulatory obligations 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, a licensee's failure to file requested material in a timely manner or to file such material at all affects the Commission's ability to adequately perform its duty to independently confirm the licensee's adherence to regulatory and licence requirements. These filings also become important indicators of whether the licensee has the willingness, ability and knowledge necessary to bring itself into compliance and maintain such compliance.
29. The full participation of the broadcasting industry is important for the NPAS to be effective in safeguarding and warning Canadians. The Commission holds that compliance is mandatory. Therefore, timely compliance by stations will be closely monitored. The Commission could, at any time, choose to apply more stringent regulatory measures, such as those set out in Broadcasting Information Bulletin 2014-608, should the requirements with respect to the NPAS not be fulfilled.
30. 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.

31. 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 commercial radio undertakings – Administrative renewals*, Broadcasting Decision CRTC 2019-221, 21 June 2019
- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2019-127, 3 May 2019
- *CJSO-FM Sorel-Tracy – Licence renewal*, Broadcasting Decision CRTC 2017-294, 23 August 2017
- *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
- *CJSO-FM Sorel – Licence renewal*, Broadcasting Decision CRTC 2014-271, 23 May 2014
- *CJSO-FM Sorel-Tracy – Licence renewal*, Broadcasting Decision CRTC 2010-857, 19 November 2010

This decision is to be appended to the licence.

Appendix 1 to Broadcasting Decision CRTC 2019-408

Terms, conditions of licence, expectation and encouragement for the French-language commercial radio programming undertaking CJSO-FM Sorel-Tracy, Quebec

Terms

The licence will expire on 31 August 2021.

Conditions of licence

- 1 The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as well as to the conditions set out in the broadcasting licence for the undertaking.
- 2 In order to fulfill its commitment relating to tangible benefits set out in the Commission letter dated 13 May 2015, *Transfer of shares – Change of effective control*, the licensee shall expend, in equal payments over seven consecutive years and by no later than 31 August of each year, a total amount of \$16,565, distributed as follows:
 - 3% of the value of the transaction to Radio Starmaker Fund or Fonds Radiostar – Total of \$8,283, divided equally over seven consecutive years;
 - 1.5% of the value of the transaction to FACTOR or MUSICACTION – Total of \$4,141, divided equally over seven consecutive years;
 - 1% of the value of the transaction to a Canadian content development initiative, described in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 – Total of \$2,761, divided equally over seven consecutive years; and
 - 0.5% of the value of the transaction to the Community Radio Fund of Canada – Total of \$1,380, divided equally over seven consecutive years.
- 3 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 January 2020, 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 2019-408, the CRTC determined that this station is in non-compliance with the *Radio Regulations, 1986*, and a condition of licence. The instances of non-compliance are a recurring issue. CJSO-FM has put in place measures to ensure that the non-compliances in question do 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 CJSO-FM Sorel-Tracy*, which is set out in Appendix 2 to *CJSO-FM Sorel-Tracy – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2019-408, 11 December 2019, by no later than 14 days following the final broadcast of the announcement.
- 4 In order to comply with the requirements set out in section 16(2) of the *Radio Regulations, 1986* and *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, the licensee shall implement the National Public Alerting System (NPAS) by no later than 11 March 2019. As part of this requirement:
- a) The licensee must file with the Commission a letter attesting to the implementation date of its NPAS within 14 days after the installation. In this letter, the licensee must confirm whether maintenance, testing and updating procedures have been adopted for its automated emergency alert message distribution equipment.
- b) In addition, the licensee must file with the Commission the results of its first NPAS tests, as scheduled by the relevant alerting authorities, within two weeks after the occurrence of such system tests.

Expectation

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

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 2019-408

Attestation as to the broadcast of the non-compliance announcement on CJSO-FM Sorel-Tracy

In regard to the requirements set out in condition of licence 3 in Appendix 1 to *CJSO-FM Sorel-Tracy – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2019-408, 11 December 2019, I _____ (NAME) on behalf of _____ (LICENSEE), certify that the announcement regarding CJSO-FM Sorel-Tracy'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 January 2020, 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 2019-408

Broadcasting Mandatory Order CRTC 2019-409

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders Radio Diffusion Sorel-Tracy inc., licensee of CJSO-FM Sorel-Tracy, to comply at all times during the term of the licence granted in *CJSO-FM Sorel-Tracy – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2019-408, 11 December 2019, with the requirements set out in sections 9(3)(a) and 9(3)(b) of the *Radio Regulations, 1986*, which read as follows:

9(3) 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 selection, and
 - (v). the language of the musical selection, where the musical selection is not an instrumental selection.

Appendix 4 to Broadcasting Decision CRTC 2019-408

Broadcasting Mandatory Order CRTC 2019-410

Pursuant to section 12(2) of the *Broadcasting Act*, the Commission hereby orders Radio Diffusion Sorel-Tracy inc., licensee of CJSO-FM Sorel-Tracy, to comply with the requirements set out in the condition of licence 3 in Appendix 1 to *CJSO-FM Sorel-Tracy – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2019-408, 11 December 2019, which reads as follows:

- 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 January 2020, 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 2019-408, the CRTC determined that this station is in non-compliance with the *Radio Regulations, 1986*, and a condition of licence. The instances of non-compliance are a recurring issue. CJSO-FM has put in place measures to ensure that the non-compliances in question do 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 CJSO-FM Sorel-Tracy*, which is set out in Appendix 2 to *CJSO-FM Sorel-Tracy – Licence renewal and issuance of mandatory orders*, Broadcasting Decision CRTC 2019-408, 11 December 2019, by no later than 14 days following the final broadcast of the announcement.