



## Broadcasting Decision CRTC 2020-295

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References: 2020-75, 2020-75-1, 2020-75-2 and 2020-75-3

Ottawa, 25 August 2020

### **Peace River Broadcasting Corporation Ltd.**

Peace River, High Level, High Prairie, Fairview and Manning, Alberta

*Public record for this application: 2019-0787-5*

*Electronic public hearing in the National Capital Region*

*16 June 2020*

### **CKKX-FM Peace River and its transmitters CFKX-FM High Level, CJHP-FM High Prairie, CKKF-FM Fairview and CKKX-FM-1 Manning – Licence renewal**

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CKKX-FM Peace River and its transmitters CFKX-FM High Level, CJHP-FM High Prairie, CKKF-FM Fairview and CKKX-FM-1 Manning from 1 September 2020 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. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue and renew licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-194, which listed the radio stations for which the broadcasting licences would expire 31 August 2020 and therefore needed to be renewed to continue their operations. In that notice of consultation, the Commission requested that the licensees of those services submit renewal applications for their broadcasting licences.
3. In response, Peace River Broadcasting Corporation Ltd. (Peace River) filed an application to renew the broadcasting licence for the English-language commercial radio station CKKX-FM Peace River and its transmitters CFKX-FM High Level, CJHP-FM High Prairie, CKKF-FM Fairview and CKKX-FM-1 Manning, which expires 31 August 2020. The Commission did not receive any interventions in regard to this application.

## Background

4. In Broadcasting Decision 2010-778, the Commission renewed the broadcasting licence for CKKX-FM and its transmitters for a short-term 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.
5. In Broadcasting Decision 2014-268, the Commission renewed that broadcasting licence for a short-term due to the licensee's non-compliance with sections 2.2(8) and 2.2(9) of the Regulations relating to the broadcast of Canadian content category 2 (Popular Music) musical selections and with sections 8(5) and 8(6) of the Regulations relating to the submission of audio recordings.
6. In Broadcasting Decision 2017-315, the Commission renewed the broadcasting licence for CKKX-FM and its transmitters for a short-term due to the licensee's non-compliance with sections 8(1) and 9(3)(b) of the Regulations relating to the submission of program logs and music lists.

## Non-compliance

7. Section 10(1)(i) of the Act authorizes the Commission to make regulations in furtherance of its objects requiring licensees to submit to the Commission such information regarding their programs and financial affairs or otherwise relating to the conduct and management of their affairs as the regulations may specify.
8. Consistent with this authority, the Commission made section 9(3)(a) of the Regulations, which specifies that a licensee shall submit the information required by the station self-assessment report when requested by the Commission. 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.
9. In Broadcasting Notice of Consultation 2020-75, the Commission stated that the licensee was in apparent non-compliance with section 9(3)(a) of the Regulations relating to the filing of the self-assessment report for CKKX-FM. Specifically, the Commission noted the following irregularities between the list of musical selections and the self-assessment report submitted by Peace River for CKKX-FM for the 11 to 17 November 2018 broadcast week:
  - number of musical selections broadcast during the broadcast week: the self-assessment report identified 32.3% more musical selections than did the music list (2447 versus 1849);
  - number of musical selections broadcast from 6:00 a.m. to 6:00 p.m., Monday to Friday of the broadcast week: the self-assessment report identified 94.2% more musical selections than did the music list (1587 versus 817);

- number of Canadian musical selections broadcast during the broadcast week: the self-assessment report identified 27.7% more musical selections than did the music list (872 versus 683); and
  - number of Canadian musical selections broadcast from 6:00 a.m. to 6:00 p.m., Monday to Friday of the broadcast week: the self-assessment report identified 77.6% more musical selections than did the music list (556 versus 313).
10. Peace River indicated that its system was generating a selection box that was left unchecked, which caused the software to generate a report showing every musical selection running between 6:00 a.m. on Sunday, 11 November 2018 consecutively through to 6:00 p.m. on Saturday, 17 November 2018. Consequently, the generated report covered up to 24 hours per day rather than 12 to 18 hours per day.
  11. The licensee noted that the individual responsible for generating and checking the reports was engaged in negotiations to leave the company, a situation unknown to management, and was therefore likely distracted, which led to the above-noted irregularities.
  12. Peace River added that management in the programming department had changed since the original submission of the station's self-assessment report to the Commission. It noted that the incoming program director/operations manager, who has extensive experience with the company, was the individual who identified not only the issue (reporting extended hours) but also the solution (checking a selection box in the software prior to generating the report).
  13. Finally, Peace River indicated that the programming department is now managed by an employee who has over a decade of experience with the licensee. The licensee further indicated that it has upgraded its protocol to limit the chance of human error going forward, and has met with its software suppliers to ensure it has an in-depth understanding of their software and its abilities. Peace River stated that it views its licence as a privilege and requested that the Commission consider giving the current management team the opportunity to prove their ability to provide information, as required, in an accurate and timely manner.
  14. In light of the above, the Commission finds the licensee in non-compliance with section 9(3)(a) of the Regulations.

### **Regulatory measures**

15. 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.

16. Since the issuance of Broadcasting Decision 2010-778, and since the general management of CKKX-FM was tasked with overseeing the filing of annual returns, there have been no issues in this regard for the station. Further, since the issuance of Broadcasting Decision 2014-268, there have been no issues regarding the filing of logger tapes, and the licensee has been in compliance with requirements relating to the broadcast of Canadian content. In regard to the non-compliance issues addressed in Broadcasting Decision 2017-315, the Commission notes that the person in charge of submitting program logs and music lists has been replaced.
17. Peace River has not dismissed the above instances of non-compliance. Rather, it has demonstrated its willingness to make the required changes and accept any corrective measures imposed by the Commission. In this regard, the station's new program director/operations manager has been able to identify issues and find solutions. In the Commission's view, the licensee appears to have the ability and knowledge to bring the station into compliance with requirements relating to the future filing of monitoring materials.
18. Peace River submitted that the imposition of corrective regulatory measures is never ideal. It also stated, however, that it respects the purpose and principles behind such measures. In this regard, the Commission notes that the licensee has continued to use findings of non-compliance to make improvements to staff and internal policies. Moreover, it remains open and willing to work with the Commission to illustrate its commitment to upholding the highest standards of broadcasting, and accept any decision the Commission believes fit.
19. Although the licensee effectively resolved the previous instances of non-compliance arising from one term to another, the Commission remains concerned that the current licence term is the fourth consecutive licence term in which the licensee has been found in non-compliance with regulatory requirements. In the Commission's view, it would therefore be appropriate to renew the broadcasting licence for CKKX-FM and its transmitters for a short-term of three years, which will allow for an earlier review of the licensee's compliance with regulatory requirements.

## **Conclusion**

20. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CKKX-FM Peace River and its transmitters CFKX-FM High Level, CJHP-FM High Prairie, CKKF-FM Fairview and CKKX-FM-1 Manning from 1 September 2020 to 31 August 2023. The licensee shall adhere to the **conditions of licence** set out in the appendix to Broadcasting Regulatory Policy 2009-62 as well as to the **conditions** set out in the broadcasting licence for the undertaking.

## **Reminders**

21. 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. 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 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 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.

22. The licensee must be in compliance with regulatory requirements at all times. Should the licensee continue to be in non-compliance with regulatory requirements, the Commission may consider recourse to additional measures during the next licence term, including the issuance of a mandatory order or non-renewal of the licence.

23. 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.

### **Cultural diversity**

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

### **Employment equity**

25. In accordance with Public Notice 1992-59, 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.

Secretary General

### **Related documents**

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2020-75, 26 February 2020, as amended by Broadcasting Notices of Consultation CRTC 2020-75-1, 23 March 2020; 2020-75-2, 7 April 2020; and 2020-75-3, 28 May 2020
- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-194, 3 June 2019
- *CFQK-FM Kaministiquia and its transmitter CKED-FM Shuniah Township; CKKX-FM Peace River and its transmitters CFKX-FM High Level, CJHP-FM High Prairie, CKKF-FM Fairview and CKKX-FM-1 Manning; and CKRA-FM Edmonton – Licence renewals*, Broadcasting Decision CRTC 2017-315, 30 August 2017

- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *CKKX-FM Peace River and its transmitters – Licence renewal*, Broadcasting Decision CRTC 2014-268, 23 May 2014
- *CKKX-FM Peace River and its transmitters – Licence renewal*, Broadcasting Decision CRTC 2010-778, 21 October 2010
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

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