



## Broadcasting Decision CRTC 2021-63

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References: Part 1 licence renewal application posted on 30 October 2020; Part 1 application posted on 30 October 2020

Ottawa, 15 February 2021

**Rogers Media Inc.**  
Smiths Falls, Ontario

*Public record for these applications: 2019-0948-3 and 2019-0950-9*

### **CJET-FM Smiths Falls – Licence renewal and licence amendment**

*The Commission **renews** the broadcasting licence for the English-language commercial radio station CJET-FM Smiths Falls from 1 March 2021 to 31 August 2026. This short-term renewal will allow for an earlier review of the licensee's compliance with its regulatory requirements.*

*The Commission **denies** the licensee's request to amend CJET-FM's broadcasting licence by deleting its condition of licence relating to the broadcast of hit material.*

#### **Applications**

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting 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 *Broadcasting 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 stations submit renewal applications for their broadcasting licences.
3. In response, Rogers Media Inc. (Rogers) filed an application (2019-0948-3) to renew the broadcasting licence for the English-language commercial radio station CJET-FM Smiths Falls, Ontario, which expires 28 February 2021.<sup>1</sup> The Commission did not receive any interventions in regard to this application.

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<sup>1</sup> The original licence expiry date for the station was 31 August 2020. The licence was administratively renewed from 1 September 2020 until 28 February 2021 as a result of Broadcasting Decision 2020-284.

4. Rogers also filed an application (2019-0950-9) to amend the broadcasting licence for CJET-FM in order to delete the station's condition of licence relating to the broadcast of hit material. The Commission did not receive any interventions in regard to this application.

## **Non-compliance**

5. Among other things, section 3(1)(i)(i) of the *Broadcasting Act* declares that the programming provided by the Canadian broadcasting system should be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes. Section 3(1)(s)(ii) of the *Broadcasting Act* also declares that private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, be responsive to the evolving demands of the public.
6. Pursuant to the authority granted by section 9(1) of the *Broadcasting Act* and consistent with the provisions set out in section 3(1), the Commission imposed on the licensee a requirement relating to the broadcast of hit material by CJET-FM. Specifically, in Appendix 18 to Broadcasting Decision 2013-460, the Commission imposed the following condition of licence:
  2. During each broadcast week, the licensee shall broadcast a maximum of 85% hit material as defined in *Policy regarding the broadcast of hits by English-language FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-61, 11 February 2009, as amended from time to time.
7. On 22 October 2019, Commission staff sent the licensee a letter detailing the results of a performance evaluation relating to the programming broadcast by CJET-FM during the 8 to 14 September 2019 broadcast week. During that week, CJET-FM broadcast a total of 91.81% hit material, which exceeds by 6.81% the 85% maximum allowable amount of hit material set out in the above-mentioned condition of licence. In a letter dated 3 August 2020, the Commission requested that the licensee provide further details in regard to this apparent non-compliance.
8. In its reply dated 13 August 2020, Rogers indicated that the apparent non-compliance was due to its recent transition to MusicMaster, a centralized scheduling software now used by all of its stations. The licensee stated that this software had not been accurately tracking the broadcast of hit material and that it had performed a software upgrade to correct this error after the apparent non-compliance was identified.
9. Rogers added that there have been no further instances of inaccurate tracking since the software upgrade was performed and, in support of that statement, attached seven self-assessment reports dating from October 2019 to April 2020 that demonstrated continued adherence to the above-noted condition of licence. The licensee apologized for this instance of non-compliance and indicated that it had introduced new measures to ensure future compliance, including the adoption of new compliance mechanisms, the implementation of centralized storage of self-assessment reports, and the

designation of specific individuals as being responsible for the compliance of each radio brand operated by Rogers.

10. In light of the above, the Commission finds the licensee in non-compliance with condition of licence 2 set out in Appendix 18 to Broadcasting Decision 2013-460.

### **Regulatory measures**

11. 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 number, recurrence and seriousness of the instances of 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.
12. The Commission, in a letter dated 3 August 2020, asked the licensee to comment on the possibility of a short-term renewal for CJET-FM in the event that Rogers was found to be in non-compliance. In its response dated 13 August 2020, Rogers indicated that it would accept a shortened licence term.
13. Given that the licensee has provided several reports demonstrating its understanding of and ongoing compliance with CJET-FM's condition of licence relating to the broadcast of hit material, the Commission is of the view that Rogers has taken appropriate corrective action to address this issue and that the implementation of these measures should allow Rogers to operate CJET-FM in compliance with its regulatory requirements in future. The Commission acknowledges the licensee's willingness to ensure the station's compliance with its regulatory requirements. Nevertheless, given the seriousness of the licensee's non-compliance, the Commission finds that it would be appropriate to renew the broadcasting licence for CJET-FM for a short-term period, which will allow for an earlier review of the licensee's compliance with its regulatory requirements.

### **Proposed licence amendment**

14. As mentioned above, Rogers proposed to delete CJET-FM's condition of licence limiting the station's broadcast of hit material to a maximum of 85% of the programming broadcast during each broadcast week.
15. Rogers submitted that no policy basis remains for the imposition of this condition of licence since the Commission, in Broadcasting Regulatory Policy 2009-61, removed this obligation for English-language FM radio stations operating outside the markets of Ottawa-Gatineau and Montréal. The licensee added that CJET-FM's sister station CKBY-FM Smiths Falls is no longer required to limit the amount of hit music that it broadcasts. Moreover, Rogers submitted that, since the changes to this policy were made in 2009, there has been no demonstrable harm to the market or to its competitors as a result of CJET-FM's non-compliance with this condition of licence.

16. The Commission does not generally approve requests to delete conditions of licence with which the licensee has been found in non-compliance. Moreover, the Commission notes that this condition of licence was imposed on CJET-FM due to its proximity to the Ottawa-Gatineau market.
17. In light of the above, the Commission does not consider that it would be appropriate to delete CJET-FM's condition of licence relating to the broadcast of hit material.

## **Conclusion**

18. In light of all of the above, the Commission **renews** the broadcasting licence for the English-language commercial radio programming undertaking CJET-FM Smiths Falls, Ontario, from 1 March 2021 to 31 August 2026. The **conditions of licence** are set out in the appendix to this decision.
19. Further, the Commission **denies** the request by Rogers Media Inc. to amend CJET-FM's broadcasting licence by deleting its condition of licence relating to the broadcast of hit material.

## **Reminders**

### **Local news and information**

20. Local radio stations are an important daily source of local news and information for communities. Holding a broadcasting licence comes with conditions, regulatory obligations and responsibilities, which include contributing to the Canadian broadcasting system by ensuring that Canadians have access to local programming that reflects their needs and interests and informs them of important current issues.
21. Rogers proposed to broadcast 38 minutes of news each week on CJET-FM.
22. Although Broadcasting Public Notice 2006-158 does not specify a minimum level of weekly news to be broadcast, it does specify the type of spoken word material that must be included as part of a station's local programming. In accordance with that public notice, the Commission reminds the licensee that the above-noted station, in its local programming, must incorporate spoken word material of direct and particular relevance to the communities served, and that this programming must include local news, weather, sports coverage, and the promotion of local events and activities. In addition, the Commission encourages the licensee to ensure that a reasonable amount of daily local news and information is made available to those communities.

### **Force and effect of broadcasting licences**

23. Pursuant to section 22 of the *Broadcasting 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.

## **Employment equity**

24. Because this licensee is subject to the *Employment Equity Act* and files reports with the Department of Employment and Social Development, its employment equity practices are not examined by the Commission.

Secretary General

## **Related documents**

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-284, 21 August 2020
- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-194, 3 June 2019
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *Various commercial radio programming undertakings – Licence renewals*, Broadcasting Decision CRTC 2013-460, 30 August 2013
- *Policy regarding the broadcast of hits by English-language FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-61, 11 February 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006

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

## **Appendix to Broadcasting Decision CRTC 2021-63**

### **Terms, conditions of licence and expectation for the English-language commercial radio programming undertaking CJET-FM Smiths Falls, Ontario**

#### **Terms**

The licence will expire 31 August 2026.

#### **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. During each broadcast week, the licensee shall broadcast a maximum of 85% hit material as defined in *Policy regarding the broadcast of hits by English-language FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-61, 11 February 2009.

#### **Expectation**

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