



Broadcasting Decision CRTC 2023-289

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References: Part 1 licence renewal application posted on 27 February 2023; Part 1 application posted on 27 February 2023

Ottawa, 25 August 2023

Radio Anticosti
Port-Menier, Quebec

Public record: 2022-0685-4 and 2022-0845-4

CJBE-FM Port-Menier – Licence renewal and amendment to a condition of service

Summary

The Commission **renews** the broadcasting licence for the French-language community radio station CJBE-FM Port-Menier, Quebec, from 1 September 2023 to 31 August 2030.

In addition, the Commission **approves** the licensee's request to amend the condition of service relating to spoken word programming in order to reduce the minimum percentage of spoken word content to be broadcast during each broadcast week from 15% to 3.8%.

Applications

1. The Commission has the authority, pursuant to subsections 9(1) and 9.1(1) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*.
2. On 10 June 2022, the Commission issued Broadcasting Notice of Consultation 2022-151,¹ which listed radio stations for which the broadcasting licences would expire 31 August 2023 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, Radio Anticosti filed an application (2022-0685-4) to renew the broadcasting licence for the French-language community radio station CJBE-FM

¹ As corrected in Broadcasting Notice of Consultation 2022-151-1.

Port-Menier, Quebec, which expires 31 August 2023.² The Commission did not receive any interventions regarding this application.

4. Radio Anticosti filed a second application (2022-0845-4) to amend a condition of service. More specifically, the licensee requested to reduce to 3.8% the minimum percentage of spoken word content to be broadcast by the station during each broadcast week. The Commission did not receive any interventions regarding this application.

Background

5. In Broadcasting Decision 2014-274, the Commission found the licensee in non-compliance with subsection 9(2) of the *Radio Regulations, 1986* (the Regulations) relating to the filing of complete annual returns.

Apparent non-compliance

Logs

6. Paragraph 10(1)(i) of the old *Broadcasting Act*, which was in effect while the licensee's application was being considered, granted the Commission the authority, in furtherance of its objects, to make regulations 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.
7. Pursuant to this authority, the Commission made subsection 8(1) of the Regulations, which sets out requirements relating to the filing of complete programming logs.
8. Subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, stipulates that any regulation made pursuant to paragraph 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*. Accordingly, subsection 8(1) of the Regulations is considered to be a condition of service pursuant to paragraph 9.1(1)(o) of the new *Broadcasting Act*, and licensees continue to be subject to this requirement.
9. During the licence renewal process for CJBE-FM, the Commission assessed the station's programming for the 11 to 17 September 2022 broadcast week and found that the following items were not included in the program log: the broadcast date and time, the content category, and the duration of certain segments.
10. The licensee acknowledged the non-compliance and explained that the station was understaffed during the monitoring week. It noted that there was only one person on

² The original licence expiry date for the station was 31 August 2021. The licence was administratively renewed until 31 August 2022 as a result of Broadcasting Decision 2020-381, and until 31 August 2023 as a result of Broadcasting Decision 2021-299.

duty to ensure the smooth running of the station, including administrative tasks, and that errors were made in the planning of the program log. The licensee added that since then, it has assigned a person to check weekly programming.

11. In light of the above, the Commission finds the licensee in non-compliance with subsection 8(1) of the Regulations.

Music list

12. Pursuant to the authority granted by paragraph 10(1)(i) of the old *Broadcasting Act*, the Commission also made paragraph 9(3)(b) of the Regulations, which sets out the requirements regarding the information on musical selections that licensees must include in their lists of musical selections for any period specified by the Commission.
13. Pursuant to subsection 49(2) of the *Online Streaming Act*, paragraph 9(3)(b) of the Regulations is considered to be a condition of service pursuant to paragraph 9.1(1)(o) of the new *Broadcasting Act*, and licensees continue to be subject to this requirement.
14. According to Commission records, for the 11 to 17 September 2022 broadcast week, the music list was not complete and accurate. More specifically, the broadcast date and time, content category and duration of certain musical selections were not clearly indicated. In addition, the music list included identified selections that were not those heard in the station's audio recordings.
15. Radio Anticosti acknowledged the non-compliance and explained that an important change of staff in recent years would have caused a lack of follow-up in the data entry and in the registration of certain musical selections.
16. The licensee noted that, following receipt of the monitoring report, it removed from the programming catalogue the musical categories that contained errors. As such, the musical selections that were problematic are therefore no longer included in the log. Radio Anticosti added that it will implement a song integration protocol to prevent future errors.
17. In light of the above, the Commission finds the licensee in non-compliance with subsection 9(3)(b) of the Regulations.

Selections from content category 1 (Spoken word) and selections other than those from content subcategory 21 (Pop, rock and dance)

18. Pursuant to subsection 9(1) of the old *Broadcasting Act*, the Commission had the authority to impose such conditions related to the circumstances of the licensee as it deemed appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of that Act.
19. Paragraph 3(1)(b) of the *Broadcasting Act* states, in part, that the Canadian broadcasting system operates primarily in the English and French languages and

includes public, private and community elements. The community element helps the broadcasting system fulfil objectives of the *Broadcasting Act*, for instance, through the exchange of cultural expression and provision of educational programming. In Broadcasting Regulatory Policy 2010-499 (the Campus and Community Radio Policy), the Commission set out a new policy for campus and community radio stations, which included changes to the standard conditions of licence (now conditions of service) for licensees of such stations.

20. In the appendix to Broadcasting Regulatory Policy 2012-304, the Commission set out the following condition of licence for all campus and community radio stations:

6. In each broadcast week, the licensee shall devote no less than 15% of its programming to programming drawn from content category 1 (Spoken word), which is comprised of content subcategories 11 (News) and 12 (Spoken word – other), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time. All of this spoken word programming shall be locally produced (that is, produced by or exclusively for the licensee).

21. Further, the Commission set out the following condition of licence for community radio stations only:

9. In each broadcast week, the licensee shall devote no less than 20% of its musical selections to musical selections from content subcategories other than content subcategory 21 (Pop, rock and dance), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.

22. According to Commission records, for the 11 to 17 September 2022 broadcast week, the licensee devoted 0.16% of its programming to programming drawn from content category 1 (Spoken word) instead of the required 15%, which represents a difference of 14.84%. In addition, the licensee devoted 14% of its musical selections to musical selections from subcategories other than content subcategory 21 (Pop, rock and dance), instead of the required 20%, which represents a difference of 6%.

23. The licensee stated that compliance with condition of licence 6 was not feasible due to the station's geo-economic situation. It added that the only hosting employee had resigned shortly before the broadcast week chosen for its monitoring. As a result, the station did not have any more local programs during that week. The licensee stated that this would explain the large discrepancy between the percentage of spoken word content required and that broadcast by the station.

24. Radio Anticosti requested the amendment of this condition of service in order to ensure compliance in this respect in the future.

25. The licensee explained the non-compliance with condition of licence 9 by the fact that the station was in transition and in the process of reorganizing its programming schedule during the monitored week. It assured the Commission that the

programming schedule meets the requirements of standard condition of licence 9, as well as all other programming requirements (excluding the condition concerning spoken word programming).

26. The licensee added that to ensure the non-compliance is not repeated in the future, it assigned a person to the weekly verification of music programming.
27. In light of the above, the Commission finds the licensee in non-compliance with conditions of licence 6 and 9 set out in the appendix to Broadcasting Regulatory Policy 2012-304.

Regulatory measures

28. 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.
29. The Commission has examined the public record for this application and notes the licensee's willingness to ensure the station's compliance with regulatory requirements. The Commission also notes that the licensee has filed an application to amend a condition of service so that its regulatory obligations reflect its particular geo-economic situation and become achievable. In the Commission's view, it is not appropriate, in this particular case, to impose measures on the licensee in regard to the instances of non-compliance stemming from the monitoring triggered by the application to amend a condition of service.

Proposed amendment to a condition of service

30. Community radio stations are subject to a standard requirement, set out in Broadcasting Regulatory Policy 2012-304, that they devote at least 15% of their programming in each broadcast week to programming from content category 1.
31. As noted above, the licensee proposed to modify this requirement by reducing the percentage of programming that CJBE-FM must devote to spoken word content from 15% to 3.8% for each broadcast week, so that the station can continue to serve its community while meeting its requirements.
32. Radio Anticosti operates out of Port-Menier, a small island community of about 150 residents. The small population base from which the station can recruit volunteers, as well as the non-profit organization's lack of financial resources, which limits the possibility of hiring people for hosting and programming, mean that Radio Anticosti cannot meet the standards for spoken word content. The licensee stated that there is currently only one employee, and that this person already handles all tasks (programming, hosting, management and administration). According to the licensee, in order to produce the minimum 15% spoken word content per week, the station

would need at least three additional hosting employees, since it does not have many volunteers.

33. The Commission generally expects radio station licensees to be in compliance with any condition of service that they are requesting to amend or remove. In this case, non-compliance is explained by the fact that it is difficult to achieve local programming targets in the geo-economic context of a municipality of this size. The Commission is of the view that an exception to its usual practice is justified in view of the exceptional circumstances.
34. The Commission notes that the principle behind the 15% spoken word requirement for community radio stations stems from the Commission's requirement that these stations broadcast relevant and reflective programming at the local level. The Commission is of the view that devoting 3.8% of the station's total programming per broadcast week, given the small pool of volunteers from which to draw, is consistent with the principles behind the policy requirement for spoken word content.
35. In light of the above, the Commission **approves** the licensee's request to amend the condition of service relating to spoken word programming. Accordingly, the Commission **orders** the licensee, by **condition of service**, to devote during each broadcast week at least 3.8% of its programming to spoken word programming.
36. However, the Commission reminds the licensee that the programming of local spoken word content is a key element in the mandate of a community station, since this type of programming facilitates communication between citizens and is a reflection of the community served. It therefore encourages the licensee to exceed the minimum percentage of spoken word content it must broadcast whenever possible.
37. Given that this renewal application was filed and processed prior to the coming into force of the new *Broadcasting Act*, and that interested parties had an opportunity to comment on the condition of service amendment proposed by the licensee as part of that process, the Commission considers the Part 1 proceeding sufficient to achieve the purposes of the publication and consultation requirement set out in subsection 9.1(4) of the new *Broadcasting Act* in this case. The specifics of this service condition are set out in the appendix to this decision.

Conclusion

38. In light of all of the above, the Commission **renews** the broadcasting licence for the French-language community radio programming undertaking CJBE-FM Port-Menier, Quebec, from 1 September 2023 to 31 August 2030.
39. In addition, the Commission **approves** the licensee's request to amend the condition of service relating to spoken word programming in order to reduce the minimum percentage of spoken word content to be broadcast during each broadcast week from 15% to 3.8%.

40. Pursuant to subsection 49(1) and of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act*. As such, the conditions of licence for this licensee became conditions of service and continue to apply to the licensee.
41. In light of paragraphs 1 and 40 of this decision, the Commission has set out **conditions of service** for this licensee in the appendix to this decision. Further, the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. The licensee shall also adhere to any such requirements set out in the broadcasting licence for the undertaking.

Reminders

42. The Commission reminds the licensee that it must comply at all times with the requirements set out in the *Broadcasting Act*, the Regulations, its licence and its conditions of service. 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, non-renewal or suspension of the licence pursuant to sections 9 and 24 of the *Broadcasting Act*.

Radio monitoring materials

43. 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 conditions of service. 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 the requested material in a timely manner, files material that is incomplete or does not file the material at all, affects the ability of the Commission to adequately perform its duty to independently confirm the licensee's adherence to its regulatory obligations. 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.

Force and effect of broadcasting licences

44. 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 (also known as Innovation, Science and Economic Development Canada) lapses.

Practical guide for radio licence renewals

45. To learn more about the Commission's review of compliance with requirements relating to radio licences, and about the radio renewal process, please consult the Commission's [Practical guide to radio licence renewals](#).

Secretary General

Related documents

- *Call for licence renewal applications – Submission of renewal applications for broadcasting licences of radio stations expiring on 31 August 2023 – Simplified renewal process*, Broadcasting Notice of Consultation CRTC 2022-151, 10 June 2022, as corrected by Broadcasting Notice of Consultation CRTC 2022-151-1, 18 August 2022
- *Various campus and community radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2021-299, 30 August 2021
- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-381, 27 November 2020
- *Update on the Commission's approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2014-608, 21 November 2014
- *CJBE-FM Port-Menier – Licence renewal*, Broadcasting Decision CRTC 2014-274, 27 May 2014
- *Standard conditions of licence for campus and community radio stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012
- *Campus and community radio policy*, Broadcasting Regulatory Policy CRTC 2010-499, 22 July 2010

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2023-289

Terms, conditions of service, expectations and encouragements for the French-language community radio programming undertaking CJBE-FM Port-Menier, Quebec

Terms

The licence will expire 31 August 2030.

Conditions of service

1. The licensee shall adhere to the conditions of service set out in *Standard conditions of licence for campus and community radio stations*, Broadcasting Regulatory Policy CRTC 2012-304, 22 May 2012, with the exception of condition of service 6. Further, the licensee shall adhere to the requirements set out in the broadcasting licence for the undertaking.
2. The licensee shall adhere to all applicable requirements set out in the *Radio Regulations, 1986*, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.³
3. In each broadcast week, the licensee shall devote no less than 3.8% of its programming to programming drawn from content category 1 (Spoken word), which is comprised of content subcategories 11 (News) and 12 (Spoken word – other), as defined in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2022-333, 7 December 2022. All of this spoken word programming shall be locally produced (that is, produced by or exclusively for the licensee).

Expectations

Cultural diversity

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

Updates on boards of directors of community and campus radio stations

The Commission expects all community and campus licensees to file yearly updates on the composition of their boards 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. Such information may be submitted through the Commission's website.

³ Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

Encouragements

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

The programming of local spoken word content is a key element in the mandate of a community station, since this type of programming facilitates communication between citizens and is a reflection of the community served. As such, the Commission encourages the licensee to exceed the minimum percentage of programming drawn from content category 1 (Spoken word) required by condition of service 3 whenever possible.