



## Broadcasting Decision CRTC 2005-114

Ottawa, 24 March 2005

**Radio CKYK FM inc.**  
Alma, Quebec

*Application 2003-1161-3  
Broadcasting Public Notice CRTC 2004-37  
2 June 2004*

### **CKYK-FM and its transmitter CKYK-FM-1 Alma – Licence renewal**

*The Commission renews the broadcasting licence for the radio programming undertaking CKYK-FM and its transmitter CKYK-FM-1 Alma, from 1 July 2005 to 31 August 2009. This short-term renewal will permit the Commission to review, at an early date, the licensee's compliance with the provisions of the Radio Regulations, 1986.*

### **The application**

1. The Commission received an application by Radio CKYK FM inc. (Radio CKYK) to renew the broadcasting licence for the French-language commercial radio programming undertaking CKYK-FM and its transmitter CKYK-FM-1 Alma. The licence expires on 30 June 2005.

### **Non-compliance**

2. On 30 July 2002, the Commission asked the licensee to provide it with logger tapes and other material relating to programming broadcast by CKYK-FM during the week of 21 to 27 July 2002.
3. By letter dated 15 August 2002, the licensee provided the Commission with the material requested, and stated that, when it was preparing its self-assessment report, it noted its non-compliance with paragraph 2.2(10) of the *Radio Regulations, 1986* (the Regulations), which reads as follows:

(10) Except as otherwise provided under a licensee's condition of licence, an A.M. or F.M. licensee licensed to operate a commercial station in the French language shall, between 6:00 a.m. and 6:00 p.m., in any period beginning on Monday of a week and ending on Friday of the same week, devote 55% or more of its vocal musical selections from content category 2 to musical selections in the French language broadcast in their entirety.

4. Specifically, the licensee stated in its self-assessment report for the week of 21 to 27 July 2002 that it devoted only 48.4% of the vocal musical selections broadcast by CKYK-FM to musical selections in the French language. The licensee also confirmed taking measures to remedy the non-compliance as quickly as possible. Following its analysis of the logger tapes, the Commission finds that the licensee devoted a total of only 48.6% of its vocal musical selections to French-language musical selections in peak time for the period in question.
5. The Commission's analysis also showed that the logger tapes for the week of 21 to 27 July 2002 were incomplete, given that the licensee failed to provide tapes for approximately 28 hours of programming aired by the station during that period. The Commission therefore notified the licensee by letter dated 9 December 2002 of its apparent non-compliance with subsections 8(5) and 8(6) of the Regulations, which read as follows:

8(5) A licensee shall retain a clear and intelligible tape recording or other exact copy of all matter broadcast

(a) for four weeks from the date of the broadcast; or

(b) where the Commission receives a complaint from any person regarding the matter broadcast or for any other reason wishes to investigate it and so notifies the licensee before the expiration of the period referred to in paragraph (a), for eight weeks from the date of the broadcast.

8(6) Where, before the expiry of the applicable period referred to in subsection (5), the Commission requests from the licensee a clear and intelligible tape recording or other exact copy of matter broadcast, the licensee shall furnish it to the Commission forthwith.

6. In a letter to the Commission dated 21 December 2002, the licensee explained that it could ascribe two reasons for its apparent non-compliance with the requirement to provide logger tapes: human negligence and defects in its recording equipment. The licensee stated that it intended to purchase digital audio recording equipment for installation in early 2003 to minimize the risks of again failing to comply with the Regulations. The licensee also stated that a station technician had checked the current equipment and that it had assigned a new person to verify the accuracy of the logger tapes.
7. On 2 June 2004, the Commission issued Broadcasting Public Notice CRTC 2004-37, which noted the apparent failure of the licensee to comply with the provisions of the Regulations regarding the provision of logger tapes and the broadcast of French-language vocal musical selections, between 6 a.m. and 6 p.m., Monday through Friday.

## **Intervention**

8. The Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) filed an intervention in connection with this application. ADISQ made general comments regarding the streamlined process set out by the Commission in *The CRTC Streamlines Radio Renewals Process*, Broadcasting Circular CRTC 2002-448, 7 June 2002 (Circular 2002-448). ADISQ noted that, in Circular 2002-448, the Commission stated that it would “assess the effectiveness of this streamlining measure after the 2003 radio renewal round has been completed.” The intervener also commented on the renewal of the CKYK-FM licence, including the licensee’s apparent failure to comply with the Regulations, as described above.
9. ADISQ stated that it was not opposed in principle to the streamlined process adopted by the Commission for renewal applications that do not raise any significant concerns, but it was concerned about the use of the streamlined process for this application. ADISQ submitted that there were not enough evaluations of the station’s compliance, nor was there enough information on the public file for it to determine whether or not to support the licence renewal for a seven-year term. ADISQ asked that the Commission hold a full public proceeding on the CKYK-FM renewal application, and, as a condition of eligibility for future streamlined renewal processes, that the Commission require that CKYK-FM file with the Commission:
  - annual compliance reports on Canadian content and French-language vocal music;
  - a report demonstrating that the station provides access to the airwaves to French-language Canadian artists and offers a variety of their musical selections; and
  - a separate compliance report on Canadian talent development (CTD) contributions, to be placed on the public file.
10. The licensee did not reply to the ADISQ intervention.

## **The Commission’s analysis and determination**

11. The Commission notes that the licensee has confirmed that it is already taking the measures required to remedy its non-compliance with respect to the provision of logger tapes and the broadcasting of French-language vocal music between 6 a.m. and 6 p.m., Monday through Friday. The Commission reminds the licensee that it must comply at all times with the provisions of the Regulations, including the requirements pertaining to the provision of logger tapes and the broadcast of French-language vocal musical selections between 6 a.m. and 6 p.m., Monday through Friday.

12. Furthermore, the Commission notes ADISQ's comments regarding the streamlined renewal process for radio licences. The Commission stated in Circular 2002-448 that the streamlining initiatives it has adopted in recent years in order to lighten the regulatory burden have assisted the licensees of broadcasting undertakings and have allowed the Commission to direct its limited resources to priority sectors. With respect to the assessment of the effectiveness of the streamlining measure, the Commission will soon issue a circular explaining its conclusions in this regard.
13. The Commission addressed ADISQ's concerns in a number of renewal decisions issued previously. In particular, the Commission stated that, while it had adopted a streamlined process, it would continue to carry out its supervisory role, particularly through the compliance monitoring of radio stations. Such monitoring activities include checking logger tapes, playlists, logs and a sampling of the programming broadcast by the stations. The Commission also considers all complaints filed, as well as any negative rulings issued by the Canadian Broadcast Standards Council.
14. The Commission also assesses the information contained in the annual reports filed by the licensees concerning CTD initiatives and examines the performance of the licensees with respect to their individual commitments or conditions of licence, as specified in previous renewal and other decisions.
15. While the Commission recognizes that its monitoring reports as well as the reports filed by the applicants may not always have been readily available on the public record, the Commission has now taken steps to ensure that these reports can be accessed on its web site. Moreover, it is convinced that the additional steps proposed by ADISQ, namely, that licensees be required to file additional reports, would only add to the administrative burden faced by broadcasters.
16. Based on its review of this licence renewal application and the licensee's past performance, and given that this is the first such infraction by the licensee, and that the licensee has confirmed that it has already taken the measures required to remedy its non-compliance with respect to the broadcasting of French-language vocal music, the Commission **renews** the broadcasting licence for the radio programming undertaking CKYK-FM and its transmitter CKYK-FM-1 Alma, from 1 July 2005 to 31 August 2009. This term will permit the Commission to review, at an early date, the licensee's compliance with the Regulations regarding the broadcast of French-language vocal musical selections and the provision of logger tapes.
17. The licence will be subject to the **conditions of licence** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999.

## **Employment equity**

18. 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.

Secretary General

*This decision is to be appended to the licence. It is available in alternative format upon request, and may also be examined in PDF or HTML format at the following Internet site: <http://www.crtc.gc.ca>*