



Broadcasting Decision CRTC 2014-241

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Route reference: 2013-335

Ottawa, 16 May 2014

AGNI Communications Inc.
Montréal, Quebec

Application 2012-0821-5, received 4 July 2012

Radio Humsafar Inc.
Montréal, Quebec

Application 2013-0403-9, received 15 February 2013

*Public hearing in the National Capital Region
12 September 2013*

Commercial ethnic radio stations in Montréal

*The Commission **approves** an application by AGNI Communications Inc. to operate a low-power commercial FM ethnic radio station in Montréal.*

*In addition, the Commission **approves** an application by Radio Humsafar Inc. to operate a commercial AM ethnic radio station in Montréal.*

Background

1. On 4 July 2012, AGNI Communications Inc. (AGNI) filed an application to operate a low-power commercial FM ethnic radio station in Montréal, Quebec. The application was scheduled as a non-appearing item at the 20 March 2013 public hearing. On 15 February 2013, Radio Humsafar Inc. (Humsafar) submitted an intervention in opposition to AGNI's application and filed an application to operate a commercial AM ethnic radio station in Montréal. Humsafar requested that the Commission postpone examination of AGNI's application and instead consider both applications concurrently at a later hearing.
2. In Broadcasting Notice of Consultation 2013-335, the Commission announced that it would reschedule AGNI's application as part of the 12 September 2013 public hearing so that the applications could be considered together. The Commission notes that while the applications are not technically mutually exclusive, they both propose to operate commercial ethnic radio stations in Montréal with some programming overlap.

The applications

AGNI

3. AGNI proposed to operate its station at 102.9 MHz (channel 275LP) with an average effective radiated power (ERP) of 31 watts (maximum ERP of 50 watts with a directional antenna and an effective height of antenna above average terrain of 44.4 metres).
4. It indicated that it would adhere to a condition of licence requiring it to direct ethnic programming to at least nine cultural groups in at least six different languages each broadcast week. Its core target cultural groups would comprise the Sri Lankan, Indian, Malaysian and Singaporean groups, to which it would also direct Tamil-language programming. AGNI also indicated that all programming broadcast by its station each broadcast week would consist of ethnic and third-language programming. AGNI submitted that if its application to operate a radio station on the FM band were approved, it would not operate its Subsidiary Communications Multiplex Operation (SCMO) service along with the FM station.
5. According to the information filed by the applicant, AGNI is controlled by Phillip Koneswaran. However, the Commission notes that this information differs from that filed with the Registraire des entreprises of Quebec. The Commission therefore expects the applicant to correct the situation.

Humsafar

6. Humsafar proposed to operate its station at 1,610 kHz with a daytime and night-time transmitter power of 1,000 watts.
7. It indicated that it would adhere to a condition of licence requiring it to direct ethnic programming to at least ten cultural groups in at least eight different languages each broadcast week. Its service would target principally the South Asian community, with a focus on the Indian, Pakistani and Bangladeshi communities. Humsafar also indicated that of the programming broadcast each broadcast week, 126 hours would be devoted to ethnic programming, 84 hours of which would be third-language programming. It also proposed to broadcast 42 hours of English-language programming each broadcast week.
8. Humsafar submitted that it wishes to move from the SCMO platform to the AM band due to limitations of the SCMO technology, given the reach and access of this platform, and to be in a position to serve the additional communities beyond the Punjabi- and English-speaking ethnic groups. It indicated that if it were granted an AM frequency, it would operate its SCMO service in parallel with the AM station for a period of three months, after which time it would cease to operate its unlicensed service.

9. Humsafar is owned by Kamaljit Kaur (50%) and Jasvir Singh Sandhu (50%) and is controlled by Jasvir Singh Sandhu, pursuant to the terms of the Unanimous Shareholders Agreement dated 5 January 2011.

Interventions

10. The Commission received interventions in support of each application. With respect to AGNI's application, the Commission also received opposing interventions from Neeti P. Ray, CKUT-FM Radio (CKUT-FM), Agaram Tamil Radio (Agaram) and Humsafar. With regards to the Humsafar application, the Commission received opposing interventions from Neeti P. Ray, Canadian Hellenic Cable Radio Ltd. (Canadian Hellenic) and AGNI, as well as a comment from Davinderjit Dhaliwal. The applicants replied to the opposing interventions. The public record for each of these applications can be found on the Commission's website at www.crtc.gc.ca or by using the appropriate application number, provided above.

Interventions regarding AGNI's application

11. In its intervention, Agaram submitted that AGNI incorrectly stated that it operates the only Tamil-language SCMO service in Montréal. Agaram indicated that it also currently operates a SCMO service in the market.
12. For its part, Humsafar submitted that AGNI's proposed format specifically targets the Tamil community and that its proposed coverage area is very limited and would not cover much of the Tamil population.

Interventions regarding Humsafar's application

13. In their interventions, Canadian Hellenic, AGNI and Davinderjit Dhaliwal submitted that Humsafar's application proposes to draw directly from the audiences and advertising revenues of incumbent stations, namely, Canadian Hellenic's CKIN-FM Montréal, by targeting similar groups and through programming overlap. Canadian Hellenic further argued that if the Commission were to licence an ethnic service, AGNI's proposed station would be a better fit for the Montréal radio market since it seeks to complement existing stations' programming. Canadian Hellenic also submitted that there is limited advertising inventory for ethnic radio and that duplicative services compromise the financial viability of the services.
14. Davinderjit Dhaliwal, a producer of Canadian third-language radio content who currently provides CKIN-FM with content in the Punjabi, Hindi and Urdu languages, submitted that Humsafar's proposal duplicates part of CKIN-FM's programming and could negatively impact CKIN-FM and the local programming offered to the Montréal radio market.

Intervention by Neeti P. Ray

15. Neeti P. Ray opposed both applications and submitted that while preparing an application to operate a radio service in Montréal targeting the South Asian

community, he was caught off guard by the two applications announced in Broadcasting Notice of Consultation 2013-335. He also submitted that the Montréal radio market would be unable to sustain two radio services serving the same cultural group and that Humsafar is targeting the same groups in the same languages in the same geographical area as his proposed service. Therefore, should Humsafar be licensed, his own service would be forfeited.

Replies

AGNI's reply

16. In reply to Humsafar's intervention, AGNI argued that its proposed programming would not overlap with existing services and would therefore not negatively impact existing ethnic radio licensees. It argued that the programming broadcast by its SCMO service is valuable to the communities it serves. The local programming for its proposed station would be produced in Montréal and would exclusively target its Montréal audience.
17. With respect to its contours, AGNI submitted that it would have a strong signal reach covering an ethnically diverse area in Montréal, with 70% of the Tamil-speaking population residing therein. It added that its contours would cover the vast majority of its target audience. It further submitted that since it has stable listenership with audiences and advertisers from its SCMO service, and given that AM services are less popular with audiences and advertisers, its proposed service would have long-lasting success.

Humsafar's reply

18. In response to Davinderjit Dhaliwal's comment, Humsafar argued that the South Asian and Anglo-Caribbean communities are not adequately served in the market, as only Punjabi- and Hindi-language programming is offered, and that its proposal has received significant support. It also highlighted that AGNI and Neeti P. Ray wanting to target the South Asian community demonstrates that this community is not adequately served.
19. Regarding the interventions by Canadian Hellenic and AGNI, Humsafar indicated that its service would not draw revenue away from CKIN-FM since it has already built up a strong advertising base from its current SCMO service and that it plans to seek untapped sources in the healthy Montréal radio market. Humsafar also claimed that its programming would be almost entirely local (except for special occasions such as coverage of the Cricket World Cup), contrary to that of Canadian Hellenic. It further indicated that it seeks to complement the Hindi- and Punjabi-language programming currently offered by Canadian Hellenic.
20. Regarding the allegation that its proposed programming would overlap with that of CKIN-FM, Humsafar indicated that 76.2% of its programming would be directed at groups with little or no service and that the overlapping programming would be offered at different times during the day and that the content would differ.

21. With respect to Mr. Ray's intervention, Humsafar questioned his efforts given that he did not intervene in January when AGNI's application was initially gazetted. It also submitted that Mr. Ray would face heavy competition in the Montréal radio market in light of AGNI's well-established SCMO service, and the fact that Mr. Ray has no broadcasting experience in the market and is relatively unknown in the Montréal South Asian community.

Commission's analysis and decisions

22. The Commission notes that the Montréal radio market is currently served by six ethnic stations owned by five different operators, namely, CKDG-FM and CKIN-FM (Canadian Hellenic), CFMB (CFMB Limited), CHOU (9015-2018 Québec Inc.), CINQ-FM (Radio Centre-Ville Saint-Louis) and CJWI (CPAM Radio Union.com inc.).

AGNI

23. As an FM station, AGNI's revenues would be essentially derived from two sources: the transfer of its current SCMO service advertising revenues and incremental revenues coming from currently underserved communities that it would target with its proposed service. According to its projections, its profit before interest and taxes would range between \$44,000 in year 1 and \$193,000 in year 7.

24. AGNI submitted that its primary contour would encompass a total population of approximately 130,000 people. The Commission notes that the interference-free contour would essentially be limited to the station's proposed primary contour. AGNI has acknowledged these technical limitations, indicating that its targeted service area is within its primary contour, and that this was taken into account in the financial projections submitted in its application.

25. Given that AGNI proposed to operate a low-power station with limited coverage hindered by interference within the secondary contour, that it proposed to broadcast in languages that differ from those of existing ethnic services and would target communities that are not currently served in the market (Tamil) and that the service is already present in the market as a SCMO, the Commission considers that it would draw marginal incremental revenues. Moreover, the introduction of AGNI's proposed service in the market would bring diversity to that market without having any undue financial impact on incumbent radio stations.

Humsafar

26. The Commission notes that Humsafar's SCMO service generates most of its revenue from advertising. Should its application be approved, this would also constitute the main source of revenue for the AM station. The applicant projected that its revenue would range from \$214,000 in year 1 and \$552,000 in year 7.

27. Humsafar submitted that its station would offer a total of 46 hours of programming to the Urdu, Hindi and Punjabi communities already served by CKIN-FM. Further,

Humsafar's proposed English-language programming would target, in part, the Caribbean community, which is currently served by CJWI. With respect to coverage, Humsafar's proposed primary contour, although smaller than those of the existing ethnic stations, is mostly encompassed within the contours of CKIN-FM and CJWI.

28. In Broadcasting Decision 2013-57, it approved an application by Canadian Hellenic to change the authorized contours of CKIN-FM. Canadian Hellenic then submitted that it was on the way to modest profitability regardless of whether the technical amendment was approved.
29. Although the Commission acknowledges the potential for some incremental impact on CKIN-FM emanating from approval of Humsafar's proposed station, the Commission considers that this impact will be mitigated by the fact that Humsafar is already operating in the market with a SCMO that targets the South Asian community and is drawing advertising revenues from the market.
30. Furthermore, the Commission finds that the financial performance of Humsafar's SCMO service and the support expressed in favour of its application demonstrate that it is a successful operator and that it has clearly been able to attract listeners with its service. Approval of its application would add some level of diversity to the Montréal radio market and would provide Humsafar with a better signal that would be easily accessible to the community.

Conclusion

31. In light of all the above, the Commission **approves** the application by AGNI Communications Inc. for a broadcasting licence to operate a low-power commercial FM ethnic radio programming undertaking in Montréal, Quebec. The terms and **conditions of licence** are set out in Appendix 1 to this decision.
32. In addition, the Commission **approves** the application by Radio Humsafar Inc. for a broadcasting licence to operate a commercial AM ethnic radio programming undertaking in Montréal. The terms and **conditions of licence** are set out in Appendix 2 to this decision.

Canadian content development

33. The Commission reminds the licensees that they must adhere to the requirements relating to Canadian content development (CCD) contributions set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time. The Commission notes that AGNI and Humsafar made commitments to exceed the minimum contribution to CCD. Specifically, AGNI proposed to make an annual over-and-above CCD contribution of \$2,000 by condition of licence (for a total of \$14,000 over seven years), to be directed to new Canadian ethnic music and artists. For its part, Humsafar proposed to make an annual over-and-above CCD contribution of \$7,000 by condition of licence (for a total of \$49,000 over seven years), to be directed to MUSICACTION and the production of a music album of an annual talent contest winner.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2013-335, 12 July 2013
- *CKIN-FM Montréal – Technical change*, Broadcasting Decision CRTC 2013-57, 13 February 2013
- *Licensing of new radio stations to serve Montréal*, Broadcasting Decision CRTC 2011-720, 21 November 2011

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

Appendix 1 to Broadcasting Decision CRTC 2014-241

AGNI Communications Inc.

Application 2012-0821-5, received 4 July 2012

Terms, conditions of licence and encouragement for the low-power commercial FM ethnic radio programming undertaking in Montréal, Quebec

Terms

The licence will expire 31 August 2020.

The station will operate at 102.9 MHz (channel 275LP) with an average effective radiated power (ERP) of 31 watts (maximum ERP of 50 watts with a directional antenna and an effective height of antenna above average terrain of 44.4 meters).

The Commission reminds the licensee that pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry (the Department) notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Given that the technical parameters approved in this decision are for a low-power unprotected FM service, the Commission also reminds the licensee that it will have to select another frequency if the Department so requires.

The Commission requires the applicant to file, within 12 months of the date of this decision, a copy of its amended and executed by-laws demonstrating that it is in compliance with the *Direction to the CRTC (Ineligibility of non-Canadians)* at all times.

Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before **16 May 2016**. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio station*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as amended from time to time.
2. The licensee shall operate the station within the Specialty format as defined in *A Review of Certain Matters Concerning Radio*, Public Notice CRTC 1995-60, 21 April 1995, as amended from time to time, and *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010, as amended from time to time.

3. The licensee shall devote all of the programming broadcast each broadcast week to ethnic programs, as defined in the *Radio Regulations, 1986*.
4. The licensee shall devote all of the programming broadcast each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*.
5. The licensee shall offer on a weekly basis programming directed to a minimum of nine cultural groups in a minimum of six languages.
6. In addition to the basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, the licensee shall, upon commencement of operations, make an annual contribution of \$2,000 (\$14,000 over seven consecutive broadcast years) to the promotion and development of Canadian content. Of this amount, 20% per broadcast year shall be devoted to FACTOR or MUSICACTION. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

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 2014-241

Radio Humsafar Inc.

Application 2013-0403-9, received 15 February 2013

Terms, conditions of licence and encouragement for the commercial AM ethnic radio programming undertaking in Montréal, Quebec

Terms

The licence will expire 31 August 2020.

The station will operate at 1,610 kHz with a daytime and night-time transmitter power of 1,000 watts.

The Commission reminds the licensee that pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

The Commission requires the applicant to file, within 12 months of the date of this decision, a copy of its amended and executed by-laws demonstrating that it is in compliance with the *Direction to the CRTC (Ineligibility of non-Canadians)* at all times.

Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before **16 May 2016**. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio station*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as amended from time to time.
2. The licensee shall devote all of the programming broadcast each broadcast week to ethnic programs, as defined in the *Radio Regulations, 1986*, as amended from time to time.
3. The licensee shall devote 84 hours of the programming broadcast each broadcast week to third-language programs, as defined in the *Radio Regulations, 1986*.
4. The licensee shall offer on a weekly basis programming directed to a minimum of ten cultural groups in a minimum of eight languages.

5. In addition to the basic annual contribution to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, the licensee shall, upon commencement of operations, make an annual contribution of \$7,000 (\$49,000 over seven consecutive broadcast years) to the promotion and development of Canadian content. Of this amount, 20% per broadcast year shall be devoted to FACTOR or MUSICACTION. The remainder shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

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.