



# Broadcasting Decision CRTC 2023-321

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References: 2022-331 and 2022-331-1

Ottawa, 20 September 2023

## Radio Boréale

Amos and Rouyn-Noranda, Quebec

*Public record: 2020-0187-4*

*Public hearing in the National Capital Region*

*23 February 2023*

## CHOW-FM Amos – New transmitter in Rouyn-Noranda

### Summary

The Commission **denies** an application by Radio Boréale to operate an FM transmitter in Rouyn-Noranda, Quebec, to rebroadcast the programming of the French-language community radio station CHOW-FM Amos, Quebec.

### Background

1. In Broadcasting Notice of Consultation 2021-376, the Commission announced that it had received applications from Josyane Cossette, on behalf of a corporation to be incorporated (OBCI), for a broadcasting licence to operate a French-language commercial FM radio station in Rouyn-Noranda, Quebec. In this notice, the Commission also announced that it had received an application from Radio Boréale to add a transmitter in Rouyn-Noranda to rebroadcast the programming of the French-language community FM radio station CHOW-FM Amos, Quebec.
2. In Broadcasting Decision 2022-259, the Commission found that the Rouyn-Noranda radio market could not accommodate an additional commercial radio station at this time. However, since no other party had expressed interest in operating a community station in this market, the Commission announced that it would publish Radio Boréale's application to operate a transmitter in Rouyn-Noranda to broadcast CHOW-FM's programming during the non-appearance phase of a public hearing.

### Application

3. Radio Boréale filed an application to operate a new FM transmitter in Rouyn-Noranda, Quebec, to rebroadcast the programming of the French-language community radio station CHOW-FM Amos.<sup>1</sup>
4. The new transmitter would operate at 104.9 MHz (channel 285 B1) with an average effective radiated power (ERP) of 4,721 watts (maximum ERP of 7,300 watts) and an effective height of the antenna above average terrain (EHAAT) of 67 metres.
5. Radio Boréale noted that the application is to address the lack of a community radio in Rouyn-Noranda. The proposed amendment is also intended to improve the financial health of the undertaking, as the expansion of the station's signal coverage is expected to result in advertising revenues, and the creation of new points of service. As such, the proposed amendment could improve the undertaking's long-term viability while providing the regional and local coverage desired by listeners in the municipal populations involved.
6. Radio Boréale noted that it will continue to broadcast at least 126 hours of programming during each broadcast week, including the production of several programs dealing with subjects related to projects supported by community organizations or groups dedicated to promoting and developing communities in the areas concerned. Radio Boréale also stated its intention to install a mobile studio and hire a part-time host to cover news from the Rouyn-Noranda region.
7. The Commission received an intervention in comments from Arsenal Media Inc. (Arsenal Media). Arsenal stated that it is concerned that the arrival of a new station, even a community station, would weaken the market. It also pointed out that Radio Boréale's request is to extend the broadcast of CHOW-FM's programming outside its licensed market. Radio Boréale did not reply to the intervention.

## **Regulatory framework**

8. Pursuant to section 5 of the *Broadcasting Act* (the Act), the Commission is required to regulate and supervise all aspects of the Canadian broadcasting system with a view of implementing the broadcasting policy set out in subsection 3(1) and having regard to the regulatory policy set out in subsection 5(2).
9. The Commission has the authority, pursuant to subsection 9(1) of the Act, to issue licences for the carrying on of broadcasting undertakings, as well as to amend those licences.
10. When a radio licensee files an application for a technical changes, including the addition of a rebroadcasting transmitter, the Commission expects the licensee to present compelling technical or economic evidence justifying the proposed technical changes.

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<sup>1</sup> Radio Boréale also filed an application (2020-0185-8) to operate an FM transmitter in La Sarre, Quebec, to rebroadcast CHOW-FM's programming.

## Issues

11. After examining the record for this application in light of applicable regulations and policies, the Commission considers that the issues to be addressed are the following:
  - whether the licensee has demonstrated a compelling economic or technical need for the requested technical changes;
  - whether the proposed transmitter is an appropriate technical solution;
  - whether the requested technical changes are an appropriate use of spectrum; and
  - whether approval of the application would undermine the integrity of the Commission's licensing process.

### Demonstration of an economic or technical need

12. According to Radio Boréale, the proposed changes would enable it to cover a larger part of the regional community, including Rouyn-Noranda and its surrounding municipalities. Rouyn-Noranda is, however, outside CHOW-FM's authorized market, as defined by its 3mV/m contour, and the licensee has not stated or demonstrated any deficiency in the station's signal to justify its application. Instead, it filed a technical change application to add a rebroadcasting transmitter to serve a separate market located 75 kilometres from the one it is licensed to serve, in this case Amos.
13. In its application, Radio Boréale stated that the proposed transmitter is necessary for the continued growth of CHOW-FM, but it did not allege that this application is necessary for the station's short- or long-term viability. Furthermore, the financial projections submitted with the application show that Radio Boréale expects the station to be profitable for at least the next three years, whether or not the application is approved.
14. In light of the above, the Commission finds that Radio Boréale has not demonstrated compelling technical or economic need justifying the requested technical changes.

### Appropriate technical solution

15. Radio Boréale is requesting the addition of a rebroadcasting transmitter in Rouyn-Noranda, about 75 km southwest of the original CHOW-FM station, currently licensed to serve the market of Amos. In its application, Radio Boréale noted that it wished to extend service to Rouyn-Noranda and surrounding areas outside the primary and secondary contours of the existing transmitter.
16. The Commission notes that Radio Boréale did not file this application because of technical deficiencies within its authorized contours, but rather to provide a new service to a neighbouring community. The Commission considers that the addition of a rebroadcasting transmitter is generally an effective solution for improving coverage in a given service area, and that any amendment should be aimed at providing adequate service to the community served.

17. Although the application is not intended to resolve a technical deficiency, the Commission considers that the addition of the proposed transmitter would represent an appropriate technical solution for providing service to Rouyn-Noranda and surrounding areas.

### **Appropriate use of spectrum**

18. Radio Boréale proposed the use of a new frequency, 104.9 MHz, in Rouyn-Noranda, which would make this frequency unavailable in the surrounding communities. However, other frequencies are available and could be used to provide service to Rouyn-Noranda and surrounding areas. Moreover, none of the major surrounding markets would be affected.
19. In light of the above, the Commission finds that Radio Boréale's proposal represents an appropriate use of the spectrum.

### **Integrity of the Commission's licensing process**

20. When a licensee of a radio station files an application for technical amendments, the licensee is generally expected to present evidence of a compelling technical or economic need justifying the technical changes.
21. However, the Commission has, as an exception to this general approach, approved applications that do not demonstrate a compelling technical or economic need when the particular circumstances of the licensee warrant, including where the applicant seeks to serve additional communities, when it is in the public interest to do so. Such applications are evaluated on a case-by-case basis and take into account the unique factors of each station's market.
22. Radio Boréale clearly stated in its application that its primary objective is to consolidate its strategic and financial position. The addition of a rebroadcasting transmitter in Rouyn-Noranda would enable it to fulfil its community mission more effectively, by stimulating and contributing more to coverage of the socio-economic and cultural activities of a larger part of the regional community it serves. Radio Boréale added that it intends to further establish its presence in the Rouyn-Noranda market by setting up a mobile studio. It added that it intends to hire a part-time host to cover regional news, and to welcome various local and regional stakeholders on a regular basis, offering them concrete and lasting collaboration.
23. Radio Boréale also stated that it intends to respond to a desire often expressed by representatives of the target population, who have long been waiting for the arrival of a community radio station that would deal with subjects specific to their community, particularly in the areas of culture, sports and socio-economics. However, the Commission notes that Radio Boréale has not provided any evidence to demonstrate this interest, and that no intervention in support of the application has been filed.
24. The Commission also notes that Arsenal Media filed comments as part of this proceeding in which it expressed reservations about Radio Boréale's application. Arsenal Media operates the French-language commercial radio station CHOA-FM Rouyn-Noranda, and a transmitter for CJGO-FM La Sarre in Rouyn-Noranda.

25. In Broadcasting Decision 2007-418, the Commission approved the community station CHOW-FM to serve the market of Amos, located in the RCM of Abitibi. However, the Rouyn-Noranda market is part of the RCM of Rouyn-Noranda, more than an hour's drive from Amos. The Commission reiterates that a transmitter is used to broadcast programming from the originating station and should not be used to broadcast unique programming for a market outside the licensed service area.
26. The Commission is concerned that the current technical amendment process is increasingly being used by licensees to extend their service beyond the licensed market without submitting evidence to justify the technical changes, or without submitting an application for a new service and the market capacity analysis that such an application could trigger. The number of exceptions to its general approach has grown and the Commission is concerned that this type of backdoor entry into markets could undermine the integrity of the licensing process. The Commission understands that community stations in particular may have concerns about the resources required to submit an application for a new service, but the Commission also believes that technical amendments should not become a default way to access new markets.
27. Granting an exception to a licensee to serve a new market by adding a rebroadcasting transmitter through a technical amendment application rather than filing an application for a new station could be to the detriment of the community to be served. This community could lose out on an opportunity to be better served in terms of local programming and news, diversity, promotion of local talent and direct community involvement, which would not necessarily be achieved by retransmitting programming from the existing station's licensed market. For these reasons, the Commission considers that the applicant should have applied for a new licence to serve the Rouyn-Noranda market by indicating, for example, that the new station could also benefit from programming synergies with the Amos station.
28. In light of the above, the Commission finds that approval of this application would undermine the integrity of the licensing process.

## Conclusion

29. In light of all of the above, the Commission **denies** the application by Radio Boréale to operate an FM transmitter in Rouyn-Noranda, Quebec, to rebroadcast the programming of the French-language community radio station CHOW-FM Amos, Quebec.

Secretary General

## Related documents

- *Findings regarding market capacity in the Rouyn-Noranda radio market*, Broadcasting Decision CRTC 2022-259, 22 September 2022
- *Call for comments on market capacity to serve Rouyn-Noranda, Quebec, and call for applications to serve Rouyn-Noranda, Quebec*, Broadcasting Notice of Consultation CRTC 2021-376, 12 November 2021
- *Community radio station in Amos, Quebec*, Broadcasting Decision CRTC 2007-418, 7 December 2007