



Broadcasting Decision CRTC 2009-533

Route reference: 2009-157

Ottawa, 28 August 2009

Radio MF Charlevoix inc.

Saint-Hilarion, La Malbaie, Baie-Saint-Paul, Petite-Rivière-Saint-François and Saint-Siméon, Quebec

Application 2009-0391-5, received 20 February 2009 and

Application 2009-0035-9, received 12 January 2009

Public Hearing in Québec, Québec

26 May 2009

Community radio station in Saint-Hilarion

*The Commission **approves** an application for a broadcasting licence to operate a French-language type B community FM radio station in Saint-Hilarion and FM transmitters in La Malbaie, Baie-Saint-Paul, Petite-Rivière-Saint-François and Saint-Siméon. Due to regulatory non-compliance by the licensee for its French-language commercial radio station CIHO-FM Saint-Hilarion and its transmitters, the licence issued to the new station will expire 31 August 2011.*

In light of the approval of the application to operate a community radio station in Saint-Hilarion and its transmitters, the Commission notes that the application to renew the licence for the French-language commercial radio station CIHO-FM Saint-Hilarion and its transmitters is null and void.

Introduction

1. The Commission received an application from Radio MF Charlevoix inc. (Radio Charlevoix) for a broadcasting licence to operate a French-language type B community FM radio programming undertaking in Saint-Hilarion and FM transmitters in La Malbaie, Baie-Saint-Paul, Petite-Rivière-Saint-François and Saint-Siméon.
2. The Commission also received an application from Radio Charlevoix to renew the licence for the French-language commercial radio programming undertaking CIHO-FM Saint-Hilarion and its transmitters CIHO-FM-1 La Malbaie, CIHO-FM-2 Baie-Saint-Paul, CIHO-FM-3 Petite-Rivière-Saint-François and CIHO-FM-4 Saint-Siméon.
3. Radio Charlevoix is a not-for-profit organization controlled by its board of directors.
4. The applicant is currently the licensee of the French-language commercial radio station CIHO-FM Saint-Hilarion and its transmitters. The licensee requested that the commercial licence for that station be replaced by a licence to operate a community radio station.

5. Radio Charlevoix indicated that it wished to operate the new community radio station and its FM transmitters using the same technical parameters as those currently authorized for its commercial radio station.
6. The Commission received a comment from l'Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) with respect to this application. The intervention and the applicant's reply can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

7. After examining the applicant's two applications in light of applicable regulations and policies and taking into account the intervention received and the applicant's reply, the Commission considers that the issues to be addressed in its determinations are the following:
 - the approval or denial of the application for a new community radio station to replace the French-language commercial radio station currently controlled by the applicant;
 - the non-compliance of Radio Charlevoix with respect to the licence for its commercial radio station; and
 - the licence term.

Application to operate a type B community radio station

8. The applicant proposed to broadcast 126 hours of programming in each broadcast week, 121 hours of which would be locally produced.
9. The station's musical programming would consist primarily of selections drawn from content category 2 (Popular music). During each broadcast week, a minimum of 20% of all musical selections would be drawn from subcategory 21 (Pop, Rock and Dance) and a minimum of 20% from subcategory 24 (Easy listening). In addition, the applicant indicated that a minimum of 3.5% of all musical selections broadcast in each broadcast week would be drawn from subcategory 34 (Jazz and Blues).
10. Spoken word programming would consist of 182 minutes of news and coverage of community events. The applicant also undertook to devote in each broadcast week at least 35% of its newscasts to local news and 15% thereof to regional news.
11. In the area of local talent development, the applicant stated that it intends to devote at least 5% of the musical selections aired each broadcast week to musical selections by emerging artists. According to Radio Charlevoix, the station should receive some 15 new releases per week and would broadcast close to two thirds of these. The applicant stated that CIHO-FM was particularly interested in emerging artists whose musical offering is innovative and original or has yet to receive much airplay.

12. Twelve full-time employees, one part-time employee and nine volunteers will work at the station. The nine volunteers would produce six programs per week, for a total of 13 hours per week.
13. The applicant submitted that, on 29 January 1985, the Commission granted an “independent FM” broadcasting licence to Radio Charlevoix (Decision 85-62), thereby granting an independent radio licence that is normally granted to commercial-type radio stations to a not-for-profit community organization.
14. Radio Charlevoix submitted that since it began operations, it has fulfilled the role and mandate of a community radio station, as defined in the Commission’s community radio policy set out in Public Notice 2000-13. Furthermore, it submitted that a strictly commercial station could not support a local and regional news service in the Charlevoix market for lack of sufficient revenues. Radio Charlevoix added that, as a community radio station, it has access to funding sources not accessible to commercial radio stations. According to the applicant, without the mixed funding the station receives, it would not be able to continue to provide the people of Charlevoix with a quality, community-oriented station able to support local participation in programming, promote the on-air presence of emerging artists and artists who are seldom broadcast, or promote regional cultural and community activities.
15. In light of the applicant’s arguments, the Commission is satisfied that the approval of the application by Radio Charlevoix is in the public interest. The Commission also considers that the application complies with the provisions of the policy for Type B community radio stations set out in Public Notice 2000-13. Accordingly, the Commission **approves** the application by Radio MF Charlevoix inc. to operate a French-language type B community FM radio station in Saint-Hilarion and FM transmitters in La Malbaie, Baie-Saint-Paul, Petite-Rivière-Saint-François and Saint-Siméon. The terms and **conditions of licence** are set out in the appendix to this decision.
16. The Commission notes that the station will broadcast 126 hours of programming in each broadcast week, 121 hours of which will be locally produced. The Commission reminds the licensee that a type B community radio station may not increase or decrease its total weekly broadcast time by more than 20% without prior Commission approval.

The licensee’s apparent non-compliance with respect to its licence to operate commercial radio station

17. On 25 March 2009, in Broadcasting Notice of Consultation 2009-157, the Commission published the application for a community radio station and the application to renew the licence to operate a commercial radio undertaking. In that notice, the Commission noted the licensee’s apparent non-compliance with the provisions of the Regulations concerning the broadcast of French-language vocal music by the commercial radio station during the broadcast week of 15 to 21 June 2008.

18. An analysis of the programming broadcast by CIHO-FM during that week showed that the licensee had devoted 61.2% of its vocal musical selections from content category 2 to French-language musical selections. These findings indicate a breach of subsection 2.2(5) of the Regulations, which stipulates that:

Except as otherwise provided under a condition of its licence, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a campus station, commercial station or community station in the French language shall, in a broadcast week, devote at least 65% of its vocal musical selections from content category 2 to musical selections in the French language broadcast in their entirety.

19. The Commission further observed that an analysis of the programming broadcast during the same week showed that the station devoted 3.2% of its musical selections to category 3 musical selections, whereas its condition of licence stipulates that the station must devote, in each broadcast week, a minimum of 5% of its musical selections to category 3 musical selections (Special interest music).
20. At the hearing, the licensee confirmed to the Commission that it had increased the percentage of French-language musical selections and of category 3 musical selections broadcast by the station during programs hosted by the employees of the station. Radio Charlevoix added that this measure allows it to compensate for the shortfall of musical selections of this type that could occur during the broadcast of the programs hosted by volunteers. It also indicated that it has other, more complete measures in place to ensure that the station complies with its obligations at all times. The Commission notes that Radio Charlevoix indicated at the hearing that it is prepared to file a self-assessment report every three months. The Commission considers that the measures implemented by Radio Charlevoix will enable it to better ensure the station's compliance and that the licensee's commitment must be imposed by condition of licence. Accordingly, a **condition of licence** requiring the licensee to file, every three months, a self-assessment report on the broadcast of French-language musical selections and of category 3 musical selections during each period beginning on Monday and ending the following Sunday, between 6:00 a.m. and 6:00 p.m., is set out in the appendix to this decision.

Licence term

21. As set out in Circular No. 444, the Commission notes that in the case of a recurrence of non-compliance, when it is satisfied with the measures that the licensee has taken and is satisfied that non-compliance is not likely to recur, it generally renews the station's licence for a term not exceeding two years. Given that this is the second time that CIHO-FM has been found to be in non-compliance with respect to the Regulations in relation to the broadcast of category 3 musical selections, the Commission would normally renew the licence for CIHO-FM for a period of two years.

22. In the present case, the Commission has, in this same decision, approved the applicant's application to operate a French-language type B community FM radio station in Saint-Hilarion and FM transmitters in La Malbaie, Baie-Saint-Paul, Petite—Rivière-Saint-François and Saint-Siméon to replace the commercial radio station. As a consequence, the application to renew the licence for the commercial radio programming undertaking CIHO-FM Saint-Hilarion and its transmitters is null and void. However, given the non-compliances mentioned above, the Commission considers it appropriate to issue the new community radio station a short-term licence for a period of two years, i.e., from 1 September 2009 to 31 August 2011, to enable the Commission to assess the licensee's compliance with the Regulations and its conditions of licence at an earlier date.

Secretary General

Related documents

- *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2009-157, 25 March 2009
- *Practices regarding radio non-compliance*, Circular No. 444, 7 May 2001
- *New licence form for community radio stations*, Public Notice CRTC 2000-157, 16 November 2000
- *Campus Radio Policy*, Public Notice CRTC 2000-13, 28 January 2000
- Decision CRTC 85-62, 29 January 1985

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

Appendix to Broadcasting Decision CRTC 2009-533

Terms, conditions of licence and encouragement

Terms

Issuance of the broadcasting licence for a type B French-language community FM radio programming undertaking in Saint-Hilarion and FM transmitters in La Malbaie, Baie-Saint-Paul, Petite-Rivière-Saint-François and Saint-Siméon

The licence will expire 31 August 2011.

The station will operate at 96.3 MHz (channel 242B) with a maximum effective radiated power of 2,450 watts. Transmitter CIHO-FM-1 La Malbaie will operate at 105.9 MHz (channel 290A1), transmitter CIHO-FM-2 Baie-Saint-Paul at 92.1 MHz (channel 221LP), transmitter CIHO-FM-3 Petite-Rivière-Saint-François at 88.1 MHz (channel 201LP) and transmitter CIHO-FM-4 Saint-Siméon at 88.1 MHz (channel 201A1).

Conditions of licence

1. The licence will be subject to the conditions set out in *New licence form for community radio stations*, Public Notice CRTC 2000-157, 16 November 2000.
2. The licensee shall devote no less than 12% of its category 3 musical selections (Special interest music) in each broadcast week to Canadian selections broadcast in their entirety.
3. The licensee must file, every three months, a self-assessment report on the broadcast of French-language vocal music and of music from category 3 for each period beginning on Monday and ending the following Sunday between 6:00 a.m. and 6:00 p.m.

Encouragement

The Commission considers that community radio stations should be particularly sensitive to employment equity issues in order to reflect fully the communities they serve. It encourages the applicant to consider these issues in its hiring practices and in all other aspects of its management of human resources.