



Broadcasting Decision CRTC 2016-323

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Reference: 2016-176

Ottawa, 12 August 2016

Evanov Radio Group Inc.

Montréal and Hudson/Saint-Lazare, Quebec

Application 2016-0189-9, received 22 February 2016

Public hearing in the National Capital Region

13 July 2016

CHRF and CFMB Montréal and CHSV-FM Hudson/Saint-Lazare – Acquisition of assets (corporate reorganization)

1. The Commission **approves** the application by Evanov Radio Group Inc. (ERG) for authority to acquire, as a part of a corporate reorganization of Evanov Communications Inc. (ECI), the assets of CHRF Montréal and CHSV-FM Hudson/Saint-Lazare from Dufferin Communication Inc. (Dufferin), as well as the assets of CFMB Montréal from CFMB Limited. Upon surrender of the current licences issued to Dufferin and CFMB Limited for the undertakings, the Commission will issue new licences to ERG. The terms and **conditions of licence** for the undertakings are set out in the appendices to this decision. The Commission received a joint intervention supporting the application.
2. ERG is owned by Mr. William V. Evanov (99.70% of the voting shares) and ECI (0.30% of the voting shares).
3. ECI currently operates thirteen stations in Manitoba, Ontario and Quebec through its solely owned subsidiaries Dufferin and CFMB Limited. Dufferin is the licensee of CHRF and CHSV-FM, while CFMB Limited, the licensee of CFMB, is solely owned by Dufferin.
4. Following completion of the transaction, ERG will become the licensee of ECI's three Quebec-based radio stations. The transaction will not affect the effective control of the three stations, which will continue to be exercised by Mr. Evanov.

Station compliance and licence term

CHRF Montréal

5. CHRF is currently in compliance with its regulatory obligations. Upon surrender of the current licence issued to Dufferin for the undertaking, the Commission will issue a new licence to ERG expiring 31 August 2022. The **conditions of licence** are set out in Appendix 1 to this decision.

CFMB Montréal and CHSV-FM Hudson/Saint-Lazare

6. For CFMB, the licensee failed to provide proof of eligibility for part of its required basic contribution to Canadian content development (CCD) under section 15 of the *Radio Regulations, 1986* (the Regulations). More specifically, the licensee failed to provide proof of eligibility regarding a contribution to the CIBPA Foundation initiative in the 2014-2015 broadcast year, resulting in a \$1,655 shortfall. The licensee indicated that the non-compliance occurred under the previous owner of the station.¹
7. For CHSV-FM, the licensee also failed to provide proof of eligibility for part of its required annual over-and-above contribution to CCD as set out in a condition of licence. More specifically, it failed to provide proof of eligibility for a contribution of \$3,500 to the Production Abelin initiative in the 2014-2015 broadcast year.
8. In the absence of proofs of eligibility, such as a letter from a third party that received the funds or a printout or brochure of the event that explicitly links the claimed expenses to the initiative, the Commission cannot deem the two contributions identified above as eligible. The Commission also notes that it approved the transaction relating to CFMB in February 2015 and that the non-compliance occurred in the broadcast year ending 31 August 2015. Additionally, the Commission notes that ERG confirmed that the proposed new licensee would be responsible for assuming any outstanding regulatory obligations, including paying any shortfall amounts.
9. In light of the above, the Commission finds it appropriate to require ERG to meet the CCD shortfalls for the 2014-2015 broadcast year by contributing the required amounts (\$1,655 for CFMB and \$3,500 for CHSV-FM) to eligible CCD initiatives **within 90 days of the publication of this decision. Conditions of licence** to this effect are set out in Appendices 2 and 3 to this decision.
10. Further, to allow for an earlier review of the licensee's compliance with its conditions of licence, the Commission considers it appropriate to issue the new licences for the two stations for a period equivalent to the remainder of the current licence terms. Accordingly, upon surrender of the current licences issued to Dufferin and CFMB Limited for the undertakings, the Commission will issue new licences to ERG for CFMB and CHSV-FM expiring 31 August 2021 and 31 August 2019 respectively.

¹ In a decision letter dated 16 February 2015, the Commission approved an application for authority to effect a change in effective control of CFMB Limited to Dufferin Communications Inc., pursuant to section 11(4) of the Regulations.

Unfulfilled benefits

11. The Commission **directs** ERG to fulfill the outstanding tangible benefits related to the change in effective control of CFMB Limited authorized by decision letter dated 16 February 2015 pursuant to section 11(4) of the Regulations. As set out in that decision, based on the value of the transaction, a tangible benefits package of \$68,700 (6% of \$1,145,000) is to be allocated as follows in payments spread out equally over a seven-year period:

- 3% (\$4,907 per year) to Radio Starmaker Fund or Fonds Radiostar for a total of \$34,350 over seven years;
- 1.5% (\$2,454 per year) to FACTOR or MUSICACTION for a total of \$17,175 over seven years;
- 1% (\$1,636 per year) to any eligible CCD initiative as direct payment for performances by Canadian ethnic musical artists for a total of \$11,450 over seven years;
- 0.5% (\$818 per year) to the Community Radio Fund of Canada for a total of \$5,725 over seven years.

Secretary General

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

Appendix 1 to Broadcasting Decision CRTC 2016-323

Terms and conditions of licence for the French-language commercial AM radio programming undertaking CHRF Montréal

Terms

The licence will expire 31 August 2022.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as well as the conditions set out in the licence for the undertaking.

Appendix 2 to Broadcasting Decision CRTC 2016-323

Terms and conditions of licence for the ethnic commercial AM radio programming undertaking CFMB Montréal

Terms

The licence will expire 31 August 2021.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, with the exception of condition of licence 7, as well as to the conditions set out in the licence for the undertaking.
2. The licensee shall provide programming directed to at least 16 cultural groups in at least 16 different languages.
3. In addition to any contributions to Canadian content development (CCD) required under section 15 of the *Radio Regulations, 1986*, the licensee shall expend the total shortfall of \$1,655 in CCD contributions identified in this decision and provide proof of payment to the Commission **within 90 days of this decision**. These contributions shall be directed 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.

Appendix 3 to Broadcasting Decision CRTC 2016-323

Terms and conditions of licence for the English-language commercial FM radio programming undertaking CHSV-FM Hudson/Saint-Lazare

Terms

The licence will expire 31 August 2019.

Conditions of licence

1. The licensee shall adhere to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, as well as the conditions set out in the licence for the undertaking.
2. As an exception to the percentage of Canadian musical selections set out in section 2.2(8) of the *Radio Regulations, 1986* (the Regulations), the licensee shall devote at least 40% of its musical selections from content category 2 (Popular Music) in any broadcast week to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meanings as set out in the Regulations.

3. To fulfill its outstanding commitments to Canadian content development (CCD) set out in the appendix to *English-language FM radio station in Hudson/St-Lazare*, Broadcasting Decision CRTC 2012-576, 19 October 2012, the licensee shall meet the following condition:

In addition to the basic annual contribution to CCD set out in section 15 of the *Radio Regulations, 1986*, the licensee shall make a contribution of \$65,000 to CCD, to be allocated as follows over seven consecutive broadcast years upon commencement of operations: \$10,000 in year one, \$9,500 in each of years two and three and \$9,000 in each of years four through seven.

Of this amount, the licensee shall allocate at least 20% to FACTOR or MUSICACTION on an annual basis. The remainder of this additional CCD contribution 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.

4. In addition to the contributions required under the condition of licence 3 above, the licensee shall expend the total shortfall of \$3,500 in Canadian content development contributions identified in this decision and provide proof of payment to the Commission **within 90 days of this decision**. These contributions shall be directed 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.