



## Broadcasting Decision CRTC 2008-128

Ottawa, 26 June 2008

**9183-9084 Québec inc.**  
Québec, Quebec

*Application 2007-1374-4, received 1 October 2007*  
*Public Hearing in the National Capital Region*  
*13 May 2008*

### **CHRC Québec – Acquisition of assets**

*The Commission conditionally **approves** the application by 9183-9084 Québec inc. to acquire, from 591991 B.C. Ltd., the assets of the French-language radio programming undertaking CHRC Québec and for a broadcasting licence to continue the operation of the undertaking. The terms and **conditions of licence** are set out in the appendix to this decision.*

### **The application**

1. The Commission received an application by 9183-9084 Québec inc. (9183-9084 Québec) to acquire, from 591991 B.C. Ltd. (Corus), the assets of the French-language commercial AM radio programming undertaking CHRC Québec and for a broadcasting licence to continue the operation of the undertaking under the same terms and conditions as those set out in the current licence and in Broadcasting Decision 2005-15.
2. 9183-9084 Québec is a corporation controlled by the Hockey Club, Les Remparts de Québec inc., which in turn is jointly controlled by three shareholders: Financière Micadco inc. (Michel Cadrin), Gestion Maurice Tanguay (Jacques Tanguay) and Phantrex inc. (Patrick Roy).
3. The Commission received interventions in support of the application, several comments and an intervention in opposition to the application. The public record for this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

### **The proceeding**

4. Because the Commission does not solicit competing applications for authority to transfer the ownership or control of radio, television and other programming undertakings, the onus is on the applicant to demonstrate that the tangible benefits proposed in the application are adequate and that the proposed value of the transaction is acceptable and reasonable. The Commission has therefore identified the following three issues to be addressed in its determinations:

- the sale of CHRC within three years of its acquisition by Corus;

- the assessment of the value of the transaction; and
- the assessment of the proposed tangible benefits package.

### **The sale of CHRC within three years of its acquisition by Corus**

5. The Commission is generally concerned when broadcasting undertakings are put up for sale within their first licence term, when an application is made to change control or ownership before a broadcasting undertaking commences operations, when it receives an application to change effective control of a broadcasting undertaking that has recently been the subject of a transaction, or when an application involves a change in effective control of a broadcasting undertaking that will be immediately sold. In the Commission's view, such transactions raise issues relating to the integrity of the licensing process and the potential gain to the vendor.
6. In Broadcasting Decision 2005-15, the Commission approved an application by Corus to acquire the assets of several AM radio stations, including CHRC. Corus commenced the operation of CHRC on 31 May 2005. Given the short period of time since Corus has acquired this station, the Commission considered the following issues:
  - the integrity of the decision making process; and
  - the potential gains.

### **Integrity of the decision making process**

7. In Broadcasting Decision 2005-15, the Commission noted that the evolution of AM radio in Quebec over the last decade had been characterized by increasing difficulties due to the ever-increasing attraction of FM radio. The Commission noted that, overall, AM stations in Quebec had not been profitable in the preceding five years, incurring annual losses in their profit before interest and tax (PBIT) in the range of \$4.8 million to \$6.4 million.
8. Further, the Commission was of the view that the difficult and deteriorating circumstances facing this station were adversely affecting its operations, the communities it was licensed to serve, its employees and the development of the AM radio industry in Quebec. The Commission considered that this unfavorable situation should be resolved as quickly as possible.
9. The Commission agreed, however, with the majority of the interveners that Corus' proposal could not be approved as submitted. The Commission was particularly concerned that little local programming was proposed for the AM station in question, and by the lack of reflection of the community it served.

10. Accordingly, the Commission considered it appropriate that, in order to put an end to the uncertainty in which the AM station found itself, the transaction be approved, albeit with the imposition of certain safeguards designed to mitigate the weaknesses of Corus' proposal and the further concerns the transaction raised. Moreover, in order to allow it to assess, in a timely manner, the effectiveness of the measures that were put in place and the licensee's progress the Commission decided to issue the new licence on a short-term basis.
11. The Commission notes that Corus tried unsuccessfully to remedy the station's financial situation. Furthermore, under the proposed transaction, a group of local owners involved in the Québec community would have an opportunity to reactivate the only AM station in this market. The Commission further notes that 9183-9084 Québec is a company of individuals with business expertise, including expertise relating to business turnarounds, and that the applicant committed to undertake numerous initiatives to make the station financially viable. Mr. Michel Cadrin and Mr. Jacques Tanguay were shareholders in CHRC from 1985 to 1994, and from 1992 to 1994 they were active in the turnaround of the station following a very difficult financial situation. In 1994, they surrendered the station to Télémédia.

#### **Potential gains**

12. The Commission notes that the proposed value of this transaction consists solely of the purchase price, which is based on the market value of the land plus the difference between the station's current assets and its current liabilities assessed as of 31 May 2007. The Commission further notes that Corus has acknowledged cumulative pre-tax losses over \$1.9 million since 31 May 2005. Given the substantial cumulative losses since Corus commenced the operation of the station, which largely exceed the value of the transaction, the Commission is not concerned about potential unreasonable profits to the seller. The Commission considers that the transaction will not result in a significant gain.

#### **Value of the transaction**

13. The applicant estimates the value of the transaction to be \$282,177.40, specifically, \$257,000, which is the difference between the station's current assets and current liabilities (i.e., net assets valued as of 31 May 2007), plus \$25,177.40, the market value of the land. The applicant notes that the value of the station's net assets will continue deteriorating until the date the transaction is closed because of declines in accounts receivable relating to the uncertainty created among advertisers when a station is put up for sale. According to the applicant, CHRC could not attract a high selling price because it is the only AM station in the Québec market, it faces stiff competition from local FM stations, and it has been incurring substantial losses for at least a decade.
14. The Commission is satisfied with the assessment of the value of the transaction.

## **Tangible benefits**

15. The Commission notes that BBM Canada data indicate a marked drop in CHRC's audience share over the last 10 years, largely the result of audience migration to the FM band and competition from local FM stations. The Commission further notes that the drop in CHRC's audience share has resulted in an equally substantial drop in the station's revenues and profitability.
16. In accordance with its tangible benefits policy established in Public Notice 1993-68, the Commission will not require payment of tangible benefits in the event of transfer of ownership of unprofitable undertakings. The profitability of an undertaking is measured according to the average PBIT of the undertaking over the three years preceding the filing date of the application.
17. In Broadcasting Decision 2005-15, the Commission did not impose tangible benefits for the stations in question. In the case of CHRC, the Commission noted that Corus had indicated that this station had had some difficult years owing to the growth of predominantly spoken word programming on local FM stations.
18. For the present case, given that CHRC has been in a deficit position in each of the last ten years, the Commission will not require payment of tangible benefits.

## **Conclusion**

19. In light of the foregoing, the Commission conditionally **approves** the application by 9183-9084 Québec inc. to acquire, from 591991 B.C. Ltd., the assets of the French-language commercial AM radio programming undertaking CHRC Québec and for a broadcasting licence to continue the operation of the undertaking.
20. Upon surrender of the current licence issued to Corus, the Commission will issue a new licence to 9183-9084 Québec inc. The new licence will expire 31 August 2009, the expiry date of the current licence, and will be subject to the terms and **conditions** set out in Appendix 1 to this decision.

## **Canadian content development**

21. In Broadcasting Public Notice 2006-158 (the Commercial Radio Policy), the Commission determined that payment of the basic annual contribution to Canadian content development (CCD) constitutes a requirement under the *Radio Regulations, 1986* (the Regulations) and would apply to all commercial radio licensees. The Commission indicated that it could impose a transitional condition of licence to reflect the new basic annual contribution to CCD until the Regulations were amended, at which time the condition of licence would expire.

22. In a letter dated 8 November 2007, the applicant indicated that, given CHRC's deficit position over the last several years, it should not be required to pay basic and other annual contributions to CCD.
23. The Commission notes that the applicant seems to have confused CCD contributions with tangible benefits. At the hearing, the Commission directed the applicant to place on the public record a document detailing the CCD contributions it intended to make, including all contributions over and above the basic annual contribution. The Commission also reminded the applicant that contributions to CCD were different from tangible benefits.
24. The Commission notes that, in the document filed by the applicant at the hearing, the applicant agreed to pay 60% of the basic annual CCD contribution to MUSICACTION and 40% to Incubateur de musique francophone (IMF), a not-for-profit organization that organizes social activities intended to entertain. The applicant will require that IMF use the funds to put on shows presenting emerging artists.
25. The Commission has examined the document and is satisfied that the applicant's proposal complies with the requirements of the Commercial Radio Policy.

### **Programming**

26. In its application, the applicant indicated that it would broadcast sports programming as well as cultural programming, and that it would also offer news-based information programs, which would include open-line programs.
27. The Commission reminds the applicant that programming broadcast by the station should be of high standard at all times, as set out in paragraph 3(1)(g) of the *Broadcasting Act*. The Commission notes that the applicant filed a code of ethics, the text of which is reproduced in the appendix to this decision. The Commission expects the applicant to abide by that code.
28. The Commission notes that the applicant did not indicate the number of hours of either live or pre-recorded programming that it intended to broadcast during each broadcast week. At the hearing, the applicant explained that all programs would eventually be produced by CHRC, but that for the time being it had entered into an agreement with Corus to air the program "Bonjour la nuit" between midnight and 5:30 a.m.
29. The Commercial Radio Policy defines local programming as follows:

Local programming includes programming that originates with the station or is produced separately and exclusively for the station. It does not include programming received from another station and rebroadcast simultaneously or at a later time; nor does it include network or syndicated programming that is five minutes or longer unless it is produced either by the station or in the local community by arrangement with the station.

30. Given that live local programming generally reflects the community being served, the Commission encourages the applicant to broadcast as many hours of live local programming as possible during each broadcast week.

**Local news**

31. In its application, the applicant indicated that no journalist would be assigned to CHRC and that there would be no local news programming originating with the station. The Commercial Radio Policy states that, “[i]n their local programming, licensees must incorporate spoken word material of direct and particular relevance to the community served. This must include local news, weather, sports coverage, and the promotion of local events and activities.”
32. The Commission notes that the applicant indicated in its application that it would accept CHRC’s existing terms and conditions of licence. In Broadcasting Decision 2005-15, Corus committed to broadcast 37 hours of local programming during each broadcast week until 31 August 2009.
33. In the letter dated 8 November 2007, the applicant indicated that, although announcers would discuss local news during certain programs, they would not present any formal newscasts. The applicant also indicated that the station would offer a total of 300 minutes per broadcast week of sports coverage, as well as weather and traffic coverage.
34. At the hearing, the Commission asked the applicant to clarify what it meant by “local news.” The applicant replied that local news would be comprised primarily of comments by announcers on news in the local newspapers or on news broadcast by other radio stations in the region. The Commission considers that local news as described by the applicant cannot be counted as newscasts.
35. In another letter, the applicant indicated that the target audience for the station’s new direction is larger and more diverse than the audience of a radio station devoted solely to sports. It also stated that the station’s listeners would be notified of important events in the Québec region, such as road closures, accidents, fires and other incidents, by the host who is on the air at the time these events occurred.
36. Given the concerns over the Montréalization of the airwaves, the Commission considers the applicant’s failure to propose any original news programming to be somewhat alarming. Furthermore, the Commission notes that several interveners expressed concern over the loss of CHRC’s journalism, to the detriment of Québec area residents, and over the loss of a news source, particularly in the wake of the elimination of several journalist positions in the various media within the region.
37. In response to these interventions, Corus and the applicant both acknowledged that CHRC’s new direction is intended to give Québec residents a window on regional sports as well as on regional culture. The applicant indicated at the hearing that maintaining a news service would be too expensive and that a requirement to maintain a news service

would make it difficult for the station to turn a profit. In reply to the intervention by the Syndicat des employés de CHRC (the Union), the applicant agreed to meet with the Union in order to discuss possible ways of keeping journalist positions at CHRC and, ultimately, of offering local newscasts.

38. The Commission considers the applicant's commitment to meet with the Union important to the approval of this application. The Commission emphasizes that it is in the public interest to require that local programming include a news component. Accordingly, the Commission expects the applicant to take the necessary action to find an acceptable solution with the Union in order to avoid the loss of the local news service at the station.
39. As mentioned above, in the Commercial Radio Policy the Commission recognized the importance of local news coverage. In the present case, although the applicant indicated that it would offer local programming in the form of sports and weather coverage and cultural information, the Commission considers that given the applicant's intent not to broadcast local news, the applicant's proposed local programming does not satisfy the definition of local programming as set out in the Commercial Radio Policy. The Commission therefore expects that applicant to incorporate, into its local programming, spoken word programming of direct and particular relevance to the community being served, in compliance with the that policy. This spoken word programming must include local news, local weather and local sports coverage, and the promotion of local activities and events.
40. In light of the foregoing, the Commission considers it appropriate to impose a **condition of approval** requiring that 9183-9084 Québec inc. file with the Commission, **within 30 days of this decision**, a new local programming proposal that is acceptable to the Commission and that includes maintaining the station's information service so as to ensure that the station offers a newscast. Furthermore, the Commission reminds the applicant that it could decide to impose this proposal as a condition of licence.
41. 9183-9084 Québec inc. must file, **within 30 days of this decision**, a report detailing how it intends to incorporate, into its local programming, spoken word programming of direct and particular relevance to the community being served, in compliance with the Commercial Radio Policy. This spoken word programming must include local news, local weather and local sports, and the promotion of local activities and events.
42. Furthermore, 9183-9084 Québec inc. must file, **within 30 days of this decision**, a report describing the action that has been taken to find a solution with the Union to avoid the loss of the local news service at the station.

### **Financial projections**

43. The Commission notes that the applicant's financial projections seem to be optimistic, given the station's history of deficits. The budget forecasts are based on reducing and stabilizing expenditures, and increasing revenues by 10%. The applicant anticipates that

the station will be profitable after the first full year of operation. According to the applicant, the shareholders' reputations and business turnaround experience will enable the applicant to achieve the projected profitability.

44. The Commission considers that this drastic change in the station's profitability seems to contradict not only the station's historical data, but also the historical data for almost all AM stations devoted to sports coverage.

Secretary General

#### **Related documents**

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Exchange of radio assets in Quebec between Astral Media Radio inc. and Corus Entertainment Inc.*, Broadcasting Decision CRTC 2005-15, 21 January 2005
- *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999
- *Application of the Benefits Test at the Time of Transfers of Ownership or Control of Broadcasting Undertakings*, Public Notice CRTC 1993-68, 26 May 1993
- *Policies for local programming on commercial radio stations and advertising on campus stations*, Public Notice CRTC 1993-38, 19 April 1993
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

*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 1 to Broadcasting Decision CRTC 2008-128

## Conditions of approval, terms, conditions of licence and encouragement

### Conditions of approval

9183-9084 Québec inc. must file with the Commission, **within 30 days of this decision**, a new local programming proposal that is acceptable to the Commission and that includes maintaining the station's information service to ensure that the station broadcasts newscasts. Furthermore, the Commission reminds the applicant that it could decide to impose this proposal as a condition of licence.

9183-9084 Québec inc. must file, **within 30 days of this decision**, a report detailing how it intends to incorporate, into its local programming, spoken word programming of direct and particular relevance to the community being served, in compliance with the *Commercial Radio Policy, 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006. This spoken word programming must include local news, local weather and local sports, and the promotion of local activities and events.

9183-9084 Québec inc. must file, **within 30 days of this decision**, a report describing the action that has been taken in order to find an acceptable solution with the Syndicat des employés de CHRC and thus avoid the loss of journalism at the station.

### Terms

The licence will expire 31 August 2009.

### Conditions of licence

1. The licence will be subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of condition of licence no. 5.
2. The licensee shall broadcast, during the period commencing 2 September 2007 and ending 31 August 2009, at least 37 hours of local programming during each broadcast week.

For the purposes of this condition of licence, "broadcast week" has the same meaning as that set out in section 2 of the *Radio Regulations, 1986*, and "local programming" has the same meaning as the definition of local programming set out in *Policies for Local Programming on Commercial Radio Stations and Advertising on Campus Stations*, Public Notice CRTC 1993-38, 19 April 1993, and reiterated in the *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, as amended from time to time.

3. With respect to condition of licence number 5, beginning with the 2007-2008 broadcast year, the licensee shall make a basic annual contribution to Canadian content development (CCD). The amount of the contribution shall be determined in accordance with the policy set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006 (Broadcasting Public Notice 2006-158), as amended from time to time.

The licensee shall allocate 60% of this basic annual CCD contribution to FACTOR or to MUSICACTION.

The remainder of the basic annual CCD contribution shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in Broadcasting Public Notice 2006-158.

This condition of licence shall expire upon the coming into force of the amendments to the *Radio Regulations, 1986* relating to CCD.

For purposes of this condition, “make a contribution” means to make an actual cash outlay.

## **Encouragement**

### **Employment equity**

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 2008-128

## Code of Ethics

As a broadcasting undertaking operating within the Canadian broadcasting system, 9183-9084 Québec inc. (CHRC) recognizes its responsibilities and obligations under the *Broadcasting Act* (the Act) and the *Radio Regulations, 1986* (the Regulations) and the conditions to which its licence is subject.

The principles underlying information at CHRC relate to the accuracy, objectivity and impartiality of the information, the integrity of employees and balance in the presentation of varying points of view.

CHRC recognizes that it is responsible for the radio programming it broadcasts and is responsible for respecting the freedom of opinion and the freedom of expression of its employees and its listeners.

No clause in this Code of Ethics or CHRC's internal policies shall, either in wording or in interpretation, be construed as an infringement or restriction of the fundamental rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms* and *Quebec's Charter of Human Rights*.

### 1. GENERAL PRINCIPLES

1.1. In accordance with the Act, the Regulations and its conditions of licence, CHRC will ensure that its programming is, inasmuch as possible and in a balanced and reasonable manner, a forum for the expression of differing points of view on matters of public interest.

1.2. CHRC will make every effort to ensure that its programming is of high standard and that no person, class of persons, association, or formal or informal group is exposed to contempt or hatred based on ethnic or national origin, race, colour, religion, age, physical or mental disability, sex, sexual orientation or family status.

1.3. CHRC recognizes that every person has the right to privacy. Should that right conflict with the public's right to information, the right to information shall prevail where the person is a public figure or a public office holder and where information about his or her private life is useful in better understanding the way that their public responsibility is carried out or in better understanding the person's behaviour. The right to information shall prevail when a person makes public aspects of his or her private life, or when private acts are conducted in a public place.

## **2. INFORMATION PROGRAMS**

2.1. CHRC will endeavour at all times to broadcast information programs, viewpoints, commentaries and editorials that demonstrate integrity, accuracy, objectivity and impartiality.

2.2. Hosts, journalists and guests shall always disclose any personal interests they may have in an issue being discussed or commented on during a program. Commitment to a cause shall not under any circumstances lead to facts being distorted or presented in a non-objective or biased manner.

2.3. Similarly, hosts and journalists shall not use the airwaves to launch personal attacks or to obtain personal favours of any kind.

2.4. A host may offer his or her opinion on subjects being discussed on air and even defend that opinion. A host may express his or her views even if they conflict with those of a guest, a caller to an open-line program or a public figure, whether or not he or she is physically present, provided it is done with respect.

2.5. A host or journalist may, and in some cases must, in the public interest, raise the validity of remarks made by a speaker in the course of a program in order to ensure balance and representativeness.

2.6. Listeners have a right of reply that allows any person, group, association, business, etc. to reply if they feel offended by an observation, commentary, interview, statement or report pertaining to them. Any person who wishes to exercise this right of reply may contact the general manager of the station, who will then work with the person making the request to determine the appropriateness and validity of the request for a reply and establish the terms of that reply. These terms will cover the form of the reply, the time of broadcast and the placement of the reply in the program schedule.

## **3. OPEN-LINE PROGRAMS**

3.1. By broadcasting open-line programs or any other programs that permit listeners' participation, CHRC wishes to give the public the opportunity to participate in debates on current affairs and present a diversity of viewpoints on matters of public interest.

3.2. To permit the presentation of quality programs, CHRC will set up production teams responsible for choosing subjects, approaches, guests, if any, and other means likely to keep the programs dynamic.

3.3. Hosts and journalists are members of the production team and in that capacity endorse the choices made. They also share responsibility for ensuring compliance with these rules.

3.4. The production team shall verify the intentions and interests of guests or participants

(listeners) on open-line programs.

3.5. Without limiting freedom of expression or the free flow of ideas and opinions, the production team shall carry out the necessary checks to ensure that organized groups do not take control of programs.

3.6. During an open-line or other program, the production team shall screen calls using as its main parameters the seriousness and value of the comment, respect for public order and broadcasting standards, and balance and diversity in the points of view being expressed.

#### **4. HIGH-QUALITY PROGRAMMING**

4.1. Through its internal policies and programming choices, CHRC will strive for balance in the programs it airs and in its overall programming.

4.2. Hosts and journalists shall demonstrate respect for the integrity and veracity of the information they broadcast and shall conduct a reasonable check of the facts before they are broadcast.

4.3. Participants in an open-line or other program, public figures, listeners, and formal or informal groups are entitled to respect and should not be harassed, insulted or ridiculed.

4.4. Coarse or vulgar remarks have no place in programming.

4.5. Contests produced and broadcast shall meet the same standards as spoken word content broadcast by the station.

4.6. Hosts, journalists and other participants in information programs shall ensure that their remarks, comments or reports do not interfere with any person's right to a fair trial.