



Broadcasting Decision CRTC 2011-772

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Route reference: 2011-412, 2011-412-1 and 2011-412-2

Ottawa, 14 December 2011

Radio Rimouski inc.
Rimouski and Amqui, Quebec

Application 2011-0540-4, received 3 March 2011

CFYX-FM Rimouski – licence amendment

*The Commission **denies** an application for an amendment to the broadcasting licence for the French-language commercial radio station CFYX-FM Rimouski.*

Introduction

1. The Commission received an application from Radio Rimouski inc. (Radio Rimouski) to amend the broadcasting licence for the French-language commercial radio programming undertaking CFYX-FM Rimouski, Quebec to eliminate the condition of licence prohibiting it from soliciting local advertising in the Baie-Comeau market.¹
2. The licensee stated that the amendment was necessary to ensure the station's viability.
3. The Commission notes that Radio Rimouski may have failed to comply with section 9(2) of the *Radio Regulations, 1986* (the Regulations) pertaining to the requirement to file annual returns. Specifically, the annual returns for CFYX-FM for broadcast years 2006-2007 and 2007-2008 were filed late.
4. The Commission received three interventions opposing the application: one from Astral Media Radio Inc. (Astral), licensee of CFVM-FM Amqui; one from CHLC-FM Baie-Comeau (9022-6242 inc.), licensee of CHLC-FM Baie-Comeau; and one from Radio Dégelis inc. (Radio Dégelis), licensee of CFVD-FM Dégelis. The public record for this proceeding can be found on the Commission's website at www.crtc.gc.ca, under "Public proceedings."

Interventions

5. In their interventions, Astral and Radio Dégelis opposed the addition of a transmitter in Amqui. Given that the applicant has withdrawn that part of the application, those interventions are no longer relevant.

¹Following two separate requests from the licensee, the Commission amended the application published in Notice of Consultation 2011-412. The first amendment was the removal of the reference to the markets of Forestville and Matane (Notice of Consultation 2011-412-1), and the second was the withdrawal of the request to add an FM transmitter in Amqui (Notice of Consultation 2011-412-2).

6. CHLC-FM Baie-Comeau specifically opposed the elimination of the condition of licence prohibiting CFYX-FM from soliciting local advertising in the Baie-Comeau market. According to the intervener, CFYX-FM's programming is not relevant to the population of Baie-Comeau. The intervener pointed out that it is therefore not surprising that the application for an amendment was not backed by any support or any invitation by business people to solicit local advertising in their community.
7. CHLC-FM Baie-Comeau asked that the Commission keep the condition of licence to conserve its market's stability and ensure that CHLC-FM has the long-term viability necessary to remain involved in all aspects of the life of the population of Baie-Comeau.

Applicant's reply

8. In its reply to CHLC-FM Baie-Comeau, Radio Rimouski reiterated the importance of the amendment requested not only for the viability of CFYX-FM, but also for its presence in the Rimouski-Neigette market. According to Radio Rimouski, any revenues received on the North Shore, no matter how small, will determine the survival of the station, which has already been accumulating a deficit for the past four years.

Commission's analysis and decisions

9. After reviewing the public record for this application, and in light of applicable regulations and policies, the Commission considers that the issues to be addressed in its determinations are as follows:
 - Does Baie-Comeau fall within CFYX-FM's market?
 - Has the applicant provided evidence in its application to justify the amendment on economic grounds?
 - Is the licensee in non-compliance during the current licence term?

Does Baie-Comeau fall within CFYX-FM's market?

10. The Commission defines a station's market as the area within the station's 3 mV/m contour, or the central BBM market in which the station is operated, whichever is smaller. In this case, the area within the station's 3 mV/m contour is the smaller market. The contour maps submitted by Radio Rimouski show that Baie-Comeau is located outside of the stations's 3 mV/m contour. The Commission therefore considers that Baie-Comeau does not fall within CFYX-FM's radio market.

Has the applicant provided evidence in its application to justify the amendment on economic grounds?

11. Radio Rimouski stated that its application is based on economic need, arguing that CFYX-FM has accumulated a deficit and that its financial situation is deteriorating. Radio Rimouski added that, in its initial application, it had projected advertising

revenues from Amqui, which did not materialize given the limited coverage of the market as a result of the station's technical parameters.

12. The Commission acknowledges the concerns expressed by Radio Rimouski with respect to the station's financial performance but notes that CFYX-FM is only in the fourth year of its licence term, and that it is common for a new station to be in a deficit position in the first years of operation.

Is the licensee in non-compliance during the current licence term?

13. Pursuant to section 9(2) of the Regulations, licensees are required to file, by 30 November of each year, their annual return for the broadcast year ending the previous 31 August. In this regard, Commission records show that CFYX-FM's annual returns for broadcast years 2006–2007 and 2007–2008 were filed late. Specifically, the return for broadcast year 2006–2007 was filed on 11 December 2007, and the return for 2007–2008 on 2 December 2008.
14. In *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011, the Commission announced a revised approach for dealing with non-compliance by radio stations. In particular, the Commission indicated that each instance of non-compliance would be evaluated in its context and in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also indicated that it would consider the circumstances leading to the non-compliance in question, the arguments provided by the licensee, and the measures taken to rectify the situation. In accordance with its revised approach and based on the level of seriousness of the instances of non-compliance identified, the Commission will process the present application according to its merits. The Commission advises the licensee that the non-compliance will be considered at the time of the renewal of its licence.

Conclusion

15. In light of all of the above, the Commission **denies** the application by Radio Rimouski inc. to amend the broadcasting licence for the French-language commercial radio programming undertaking CFYX-FM Rimouski.

Secretary General