



## Broadcasting Decision CRTC 2012-222

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Ottawa, 16 April 2012

**Radio du Golfe inc.**  
Chandler and Percé, Quebec

*Application 2011-1284-6*

### CFMV-FM Chandler – New transmitter in Percé

*The Commission **denies** the application by Radio du Golfe inc. to amend the broadcasting licence for the French-language commercial radio station CFMV-FM Chandler in order to add a low-power FM transmitter in Percé.*

#### The application

1. The Commission received an application by Radio du Golfe inc. (Radio du Golfe) to amend the broadcasting licence for the French-language commercial radio programming undertaking CFMV-FM Chandler in order to add a low-power FM transmitter in Percé to rebroadcast the programming of CFMV-FM Chandler to the population of Percé. The transmitter would operate on frequency 97.3 MHz (channel 247LP) with an effective radiated power of 50 watts (non-directional antenna with an effective height of antenna above average terrain of -24.6 metres).
2. The licensee indicated that the purpose of adding this transmitter was not to expand its service area, but to improve the reception quality of the CFMV-FM signal in the Percé area, where it is weakened by the mountainous terrain.
3. The Commission received interventions in opposition to this application by Radio Gaspésie inc. (Radio Gaspésie) and Coopérative des travailleurs CHNC (CHNC). The public record for this application can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

#### Interventions and applicant's reply

4. In its intervention, Radio Gaspésie expressed concern regarding the fact that Radio du Golfe intends to use the frequency 97.3 MHz, which is the same frequency used by its rebroadcasting transmitter CJRG-FM-2 in Fontenelle. The intervener pointed out that joint use of the frequency may cause interference and confusion for listeners.
5. CHNC expressed dissatisfaction with the programming offered by CFMV-FM. It also indicated that the station had been renewed in 2010 for a period of only four years due to non-compliance and that it is the Commission's longstanding practice to deny

technical amendments requested by licensees that are in non-compliance with their regulatory obligations.

6. In its reply, Radio du Golfe specified that the purpose of its application for a technical amendment to add a transmitter in Percé is to strengthen the station's signal in that part of its authorized contours, which has a mountainous terrain. With regard to possible listener confusion, Radio du Golfe submitted that the population would be able to differentiate between Chandler and Gaspé radio stations.

### **Commission's analysis and decisions**

7. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address relate to the following:

- CFMV-FM's authorized contours;
- the frequency proposed by the applicant; and
- CFMV-FM's instances of non-compliance.

#### **CFMV-FM's authorized contours**

8. The Commission notes that section 2 of the *Radio Regulations, 1986* (the Regulations) defines the market of an FM station as "the F.M. 3mV/m contour or the central area as defined by the Bureau of Broadcast Measurement (BBM), whichever is smaller."
9. The Commission recognizes that while in technical terms the addition of a transmitter would strengthen the signal in certain areas, doing so would expand CFMV-FM's authorized contours, namely the Chandler market which is found in its authorized 3mV/m contour.

#### **Frequency proposed by the applicant**

10. The Commission considers that the common use of 97.3 MHz by Radio du Golfe and Radio Gaspésie would be problematic, notwithstanding the technical approval received from Department of Industry.
11. The Commission considers that there could be a risk of programming confusion for listeners traveling from one destination to another, as pointed out by Radio Gaspésie in its intervention.

#### **CFMV-FM's instances of non-compliance**

12. The Commission notes that it denied an application by Radio du Golfe to add a low-power FM transmitter in Percé in Broadcasting Decision 2010-56. The Commission also notes that the frequency proposed in this application is different from that proposed in the application denied in Broadcasting Decision 2010-56.

However, the Commission wishes to specify that this denial was based not on the frequency selected, but on the fact that CFMV-FM was found in non-compliance with sections 2.2(5) and 2.2(10) of the Regulations. As the Commission's practice at the time was to deny applications for amendments by stations found in non-compliance, the application could not be taken into consideration.

13. Furthermore, the Commission notes that in Broadcasting Decision 2010-883 it renewed the station for a short term, i.e. from 1 December 2010 to 30 November 2014. This short-term renewal was due to the station's failure to comply with its regulatory obligations with regard to French-language music, the filing of annual returns and contributions to Canadian content development. At the time, the Commission noted the measures taken by the licensee to rectify the situation and was satisfied with these measures. The Commission considers that the station has already had measures imposed on it in the previous licence term with regard to its instances of non-compliance.
14. In response to CHNC's intervention regarding the Commission's practices, the Commission notes that in Broadcasting Information Bulletin 2011-347, issued on 26 May 2011, it set out its revised approach to non-compliance by radio stations. It specified that it would no longer automatically deny an application for amendments filed by a licensee in non-compliance. Because the application by Radio du Golfe was filed on 16 September 2011, it is subject to the new approach. Furthermore, the Commission did not note any instances of non-compliance in the new licence term. As such, the Commission considers that non-compliance is not an issue in this case.

## Conclusion

15. In light of all of the above, the Commission **denies** the application by Radio du Golfe inc. to amend the broadcasting licence for the French-language commercial radio programming undertaking CFMV-FM Chandler in order to add a low-power FM transmitter in Percé to rebroadcast the programming of CFMV-FM Chandler to the population of Percé.

Secretary General

## Related documents

- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *CFMV-FM Chandler – Licence renewal*, Broadcasting Decision CRTC 2010-883, 26 November 2010
- *CFMV-FM Chandler – New transmitter in Percé*, Broadcasting Decision CRTC 2010-56, 4 February 2010