



## Broadcasting Decision CRTC 2015-400

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Reference: 2015-201

Ottawa, 26 August 2015

**Média ClassiQ inc.**

Montréal and Québec, Quebec

*Applications 2015-0322-7 and 2015-0348-3, received 9 April 2015*

*Public hearing in the National Capital Region*

*22 July 2015*

### **CJPX-FM Montréal and CJSQ-FM Québec – Acquisition of assets and licence amendments**

*The Commission **approves**, with certain changes to the value of the transaction and the tangible benefits package, an application by Média ClassiQ inc. (Média ClassiQ) for authority to acquire from Radio-Classique Montréal inc. and Radio-Classique Québec inc. the assets of the French-language specialty commercial radio programming undertakings CJPX-FM Montréal and CJSQ-FM Québec, Quebec, respectively, as well as for new broadcasting licences to continue the operation of the stations.*

*This transaction serves the public interest as it will ensure diversity of programming and voices for listeners in the Montréal and Québec markets.*

*The Commission also **approves** an application by Média ClassiQ to amend CJSQ-FM's conditions of licence to operate it under the same conditions as CJPX-FM. Harmonizing the conditions of licence for the two stations will allow for synergies and help rectify CJSQ-FM's financial situation.*

#### **Applications**

1. Média ClassiQ inc. (Média ClassiQ) filed applications:

- for authority to acquire from Radio-Classique Montréal inc. and Radio-Classique Québec inc. the assets of the French-language specialty commercial radio undertakings CJPX-FM Montréal and CJSQ-FM Québec, Quebec, respectively, as well as for new broadcasting licences to continue the operation of these stations (application 2015-0322-7); and
- to amend CJSQ-FM's conditions of licence to operate it under the same conditions as CJPX-FM (application 2015-0348-3).

2. Média ClassiQ is wholly owned by Marignan inc., a corporation controlled by Mr. Gregory Charles.
3. Following completion of the transaction, Média ClassiQ would become the licensee of CJPX-FM and CJSQ-FM.
4. The Commission received interventions supporting the applications, mainly from interveners in Quebec's classical music field. It also received an intervention commenting on the applications from the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), to which the applicant replied. ADISQ's intervention and the applicant's reply are addressed further in this decision. The public record for this proceeding can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the application numbers provided above.

### **Regulatory framework**

5. The review of ownership transactions is an essential element of the Commission's regulatory and supervisory mandate under the *Broadcasting Act* (the Act). Since the Commission does not solicit competitive applications for changes in effective control of broadcasting undertakings, the onus is on the applicant to demonstrate that approval is in the public interest, that the benefits of the transaction are commensurate with the size and nature of the transaction and that the application represents the best possible proposal under the circumstances.
6. The Commission must consider each application on its merits, based on the circumstances specific to the application. In addition, the Commission must be assured that approval of a proposed ownership transaction furthers the public interest as expressed in the objectives set out in section 3(1) of the Act.

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

7. Média ClassiQ wishes to maintain the stations' specialty format and preserve their distinct orientation as classical music broadcasters in markets where most stations favour popular music or spoken word formats. Média ClassiQ is also examining the possibility of devoting part of the two stations' programming to "classical jazz" music, which is no longer broadcast in Montréal and very little in the Québec market. Média ClassiQ's proposal for the two stations' programming would consequently contribute to the diversity of programming in those two markets.
8. This transaction would introduce a new player in the broadcasting industry and would thus contribute to the diversity of voices in two major French-language radio markets in Quebec. Further, Mr. Charles' popularity and success as an artist and businessman suggest that the programming will be of high quality, with much individuality and news about the music scene, which could increase the youth listenership of CJSQ-FM and CJPX-FM.
9. Moreover, thanks to Mr. Charles' various cultural undertakings (e.g., in the fields of concert production and television programming), CJPX-FM and CJSQ-FM could benefit

from synergies that would enable them to better compete for advertising revenues with the many stations belonging to major ownership groups (e.g., Bell Media, Cogeco and RNC MEDIA). These synergies would be particularly important for the sustainability of these stations, whose financial situation has been tenuous for a number of years.

10. Média ClassiQ's proposal to broadcast 70 hours and 56 hours of local programming for CJPX-FM and CJSQ-FM respectively represents a reduction from the current offering of 126 hours of local programming for each of the stations. However, the Commission considers that the recovery plan to ensure the stations' long-term viability and the benefits to the broadcasting system associated with the transaction justify and counterbalance this decrease.
11. In light of the above, the Commission finds that this transaction serves the public interest as it would ensure diversity of programming and voices for listeners in the Montréal and Québec markets.
12. In the context of this proceeding, the Commission considered the following issues:
  - the value of the transaction;
  - the proposed tangible benefits package;
  - the length of the licence term; and
  - the request to amend CJSQ-FM's conditions of licence.

### **Value of the transaction**

13. Pursuant to the terms of the asset sale contract, the purchase price for this transaction is \$10,500,000. Média ClassiQ also added to this amount a long-term debt (\$495,000), a working capital (\$137,493), leases (\$1,644,985) and a consulting contract (\$420,000) for a total of \$13,197,478.
14. In accordance with Commission practice,<sup>1</sup> all short-term assets to be transferred upon closing must be included in the calculation of the transaction value. In this case, under the asset sale contract, the seller will transfer prepaid expenses to the buyer. However, the applicant failed to include these expenses in its calculation. According to the most recent financial statements of Radio-Classique Montréal inc. and Radio-Classique Québec inc. completed before the asset sale contract was signed, the prepaid expenses represent a total short-term asset of \$29,442. Accordingly, the Commission has revised the value of the transaction as follows:

<b>Purchase price</b>	<b>\$10,500,000</b>
Working capital (\$137,193 + \$29,442)	\$166,935

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<sup>1</sup> See Broadcasting Regulatory Policy 2014-459.

Long-term debt	\$495,000
Additions:	
Assumed leases	\$1,644,985
Consulting contract	\$420,000
<b>Revised transaction value</b>	<b>\$13,226,920</b>

### Proposed tangible benefits package

15. In the context of this proceeding, Média ClassiQ agreed to amend the amount of the proposed tangible benefits package to reflect, if necessary, adjustments made by the Commission to the value of the transaction. In accordance with the revised value of the transaction and the allocation of tangible benefits set out in the Commission's tangible benefits policy,<sup>2</sup> the Commission **directs** Média ClassiQ to make tangible benefits contributions amounting to 6% (\$793,615) of the revised value. The contributions shall be allocated in equal instalments over the next seven broadcast years as follows:

- 3% (\$396,807) to Fonds Radiostar;
- 1.5% (\$198,404) to MUSICACTION;
- 1% (\$132,269) to any eligible Canadian content development (CCD) initiative at the discretion of the purchaser; and
- 0.5% (\$66,135) to the Community Radio Fund of Canada.

16. ADISQ maintained that Média ClassiQ should specify which eligible CCD initiatives (the discretionary 1%) it intended to fund given that the Commission sometimes determines that certain initiatives are not eligible after the sums have already been paid by licensees.

17. The buyer indicated that it did not provide details on discretionary initiatives to allow for flexibility in the allocation of tangible benefits contributions.

18. In that regard, the Commission does not generally require applicants to provide details regarding the initiatives they intend to fund as part of applications for changes in effective control. However, in accordance with the *2006 Commercial Radio Policy*,<sup>3</sup> they

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<sup>2</sup> The tangible benefits policy was established in Public Notice 1998-41 and reiterated in Broadcasting Public Notice 2006-158 and Broadcasting Regulatory Policy 2014-459.

<sup>3</sup> See Broadcasting Public Notice 2006-158.

must do so when filing their annual returns. The licensees are responsible for ensuring that the discretionary portion of the tangible benefits contribution is allocated to third parties eligible for CCD funding, as set out in paragraph 108 of that policy.

### **Length of the licence term**

19. Both stations are currently in compliance with their regulatory requirements. Consequently, the Commission considers it appropriate to harmonize the new licence term for the stations by granting them a full seven-year term, namely, until 31 August 2022.

### **Request to amend CJSQ-FM's conditions of licence**

20. Média ClassiQ proposed to amend the conditions of licence of CJSQ-FM so that it be operated under the same conditions as CJPX-FM, as set out in Broadcasting Decision 2010-831. The buyer explained that harmonizing the conditions of licence of the two stations would enable it to standardize the programming offered by its two stations, adding that this shared programming broadcast simultaneously by the two stations would be produced by both CJPX-FM and CJSQ-FM. Specifically, Média ClassiQ proposed to broadcast 126 hours of programming per broadcast week, with 70 hours originating from Montréal and 56 hours originating from Québec. Each station will also broadcast local news segments originating from the other station as part of the programming provided by that station.<sup>4</sup>
21. This harmonization would involve the deletion of CJSQ-FM's conditions of licence 3, 4, 5 and 6 as set out in Broadcasting Decision 2013-421.

### **Conditions of licence 3 and 4 regarding programming**

22. Média ClassiQ requested the deletion of condition of licence 3, which requires the licensee to devote at least 90% of its musical selections in each broadcast week to selections drawn from subcategory 31 (Concert).
23. ADISQ expressed concern that not imposing a music genre by condition of licence on the two stations could allow the stations to change their format without the Commission's approval.
24. The Commission considers that condition of licence 3 is not necessary to ensure that CJSQ-FM maintains its specialty format. In this respect, the Commission notes that Média ClassiQ has committed to maintaining the specialty format of their two stations (condition of licence 2 for CJPX-FM and CJSQ-FM<sup>5</sup>) and their music format.

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<sup>4</sup> CJPX-FM's local programming would include 28 minutes of local segments originating from CJSQ-FM. CJSQ-FM's local programming would include 40 minutes of local segments originating from CJPX-FM.

<sup>5</sup> See Broadcasting Decisions 2010-831 and 2013-421 respectively.

25. Média ClassiQ also requested the deletion of condition of licence 4 for CJSQ-FM, which requires the licensee to devote at least 35% of its musical selections from content category 3 (Special Interest Music) in each broadcast week to Canadian selections broadcast in their entirety, and that it be instead subject to the same level as CJPX-FM (20%). This 20% threshold exceeds the 10% level set out in section 2.2(3)(b) of the *Radio Regulations, 1986* (the Regulations).

#### **Condition of licence 5 – Additional CCD contributions**

26. Média ClassiQ requested the deletion of condition of licence 5, which requires the licensee to expend \$5,000 in each broadcast year on eligible CCD initiatives over and above the basic annual contribution. The buyer explained that CJSQ-FM was still operating at a deficit and that under the circumstances this money would be better used for programming to contribute to the financial recovery of the two stations.

27. ADISQ opposed the deletion of the condition of licence, stating that at its last licence renewal, CJSQ-FM voluntarily committed to making this additional annual contribution despite its deficit. According to ADISQ, the new owner of the stations should honour that commitment.

28. In reply, Média ClassiQ reiterated that it believed its request to delete this condition of licence was reasonable in light of CJSQ-FM's financial situation.

29. The Commission considers that it is rare for a licensee to propose additional contributions during a licence renewal as licensees generally limit themselves to meeting the basic contributions set out in section 15 of the Regulations. Moreover, considering CJSQ-FM's revenues – which were less than \$1.25 million in 2014 – the licensee would not have to pay basic CCD contributions.

30. In light of the above and given the precarious financial situation of the two stations, the Commission considers that the deletion of condition of licence 5 for CJSQ-FM would enable Média ClassiQ to invest that amount toward the financial recovery of the stations.

#### **Condition of licence 6 – Shortfall in Canadian talent development contributions**

31. During its last licence renewal, CJSQ-FM was found in non-compliance due to a shortfall of \$702 in Canadian talent development (now called CCD) contributions. In Broadcasting Decision 2013-421, the Commission therefore imposed a condition of licence requiring it to expend the shortfall and provide proof of payment within 90 days of the decision.

32. As the licensee paid the amount and provided proof of payment within the required timeframe, this condition of licence is no longer necessary.

#### **Impact of harmonizing conditions of licence**

33. The Commission considers that harmonizing the conditions of licence would allow CJSQ-FM greater programming flexibility, namely, the same flexibility from which CJPX-FM currently benefits. Such harmonization would also allow for synergies and

help rectify the financial situation of CJSQ-FM, which has not been profitable since it went on air in 2007. According to Média ClassiQ's projections, approval of the application would result in a slight revenue increase for CJSQ-FM by 2018. By contrast, in the case of a denial of the amendment application, Média ClassiQ anticipated losses in the coming years.

34. Despite the anticipated profit increase for CJSQ-FM, Média ClassiQ stated that it did not believe that the station's market shares could be increased significantly in the short or medium term. In this respect, stations operating under specialty formats generally have less impact on other stations in a market because their formats do not attract large audiences. Further, CJSQ-FM will remain the only commercial radio station specializing in classical music in Québec.
35. In light of the above, the Commission considers that approving the application to amend the conditions of licence for CJSQ-FM would contribute to its financial viability and would not have an undue impact on the other stations in the Québec market.

## Conclusion

36. In light of all of the above, the Commission **approves**, with certain changes to the value of the transaction and the tangible benefits package, the application by Média ClassiQ inc. for authority to acquire from Radio-Classique Montréal inc. and Radio-Classique Québec inc. the assets of the French-language specialty commercial radio programming undertakings CJPX-FM Montréal and CJSQ-FM Québec, Quebec, respectively, as well as for new broadcasting licences to continue the operation of these undertakings.
37. The Commission also **approves** the application by Média ClassiQ inc. to amend CJSQ-FM's conditions of licence to operate it under the same conditions as CJPX-FM.
38. Upon surrender of the current licences issued to Radio-Classique Montréal inc. and Radio-Classique Québec inc., the Commission will issue to Média ClassiQ inc. new broadcasting licences, which will expire 31 August 2022. The terms and **conditions of licence** for the stations are set out in the appendix to this decision.

Secretary General

## Related documents

- *Simplified approach to tangible benefits and determining the value of the transaction*, Broadcasting Regulatory Policy CRTC 2014-459, 5 September 2014
- *CJSQ-FM Québec – Licence renewal*, Broadcasting Decision CRTC 2013-421, 20 August 2013
- *CJPX-FM Montréal – Licence renewal*, Broadcasting Decision CRTC 2010-831, 9 November 2010

- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998

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

## **Appendix to Broadcasting Decision CRTC 2015-400**

### **Terms, conditions of licence and encouragement for the French-language specialty commercial radio programming undertakings CJPX-FM Montréal and CJSQ-FM Québec, Quebec**

#### **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 AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009, with exception of condition of licence 7.
2. The licensee shall operate the station within the specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. The licensee shall devote at least 20% of its musical selections from content category 3 (Special Interest Music) in each broadcast week to Canadian musical selections broadcast in their entirety and scheduled in a reasonable manner throughout each broadcast day.

#### **Encouragement**

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.

#### **Additional condition of licence applicable only to CJPX-FM Montréal**

4. The licensee may use two subsidiary communications multiplex operations (SCMO) system channels to broadcast a radio service primarily in the Punjabi, Hindi, Urdu, Bengali and Sinhala languages on the first channel, as well as a service primarily in the Portuguese language with programs from Radio Club Montréal (94%) and from other sources (6%) on the second channel.