



Broadcasting Decision CRTC 2006-350

Ottawa, 10 August 2006

591991 B.C. Ltd.
Montmagny, Quebec

Application 2005-1570-3
Public Hearing in Québec, Quebec
20 March 2006

CFEL-FM Montmagny – Technical change

*The Commission **approves** an application to change the authorized contours of the French-language radio station CFEL-FM Montmagny by increasing the average effective radiated power from 8,740 watts to 25,700 watts, by decreasing the antenna height and by relocating the transmitter.*

Background

1. The application by 591991 B.C. Ltd., a subsidiary of Corus Entertainment Inc. (Corus), is one of ten requests to serve Québec that were considered at the 20 March 2006 Public Hearing in Québec. Six of these applications were for licences to operate new FM stations, of which four proposed to serve the city of Québec and two proposed to serve the city of Lévis. Three applications proposed to change the authorized contours of FM stations in the Québec area with the result that these stations could be considered as serving the Québec market. One final application proposed to operate a new AM station at Lévis. Some of these applications were also technically mutually exclusive as they proposed the use of the same frequencies in this market.
2. The Commission's determination regarding the ability of the Québec market to support new stations serving this market is set out in *Licensing of new radio stations and licence amendments for radio stations in the area of Québec, Quebec – Introduction to Broadcasting Decisions CRTC 2006-348 to 2006-351*, Broadcasting Public Notice CRTC 2006-101, of today's date. In *French-language specialty FM radio station in Québec*, Broadcasting Decision CRTC 2006-348, of today's date, the Commission has approved the application by 9147-2605 Québec inc. to operate a new commercial specialty FM station in Québec. In *CKNU-FM Donnacona and CKNU-FM-1 Sainte-Croix-de-Lotbinière – Licence renewal and amendment*, Broadcasting Decision CRTC 2006-349, of today's date, the Commission has renewed the broadcasting licence for CKNU-FM Donnacona and its transmitter CKNU-FM-1 Sainte-Croix-de-Lotbinière, and has approved Radio Nord Communications inc.'s proposed amendments to the

condition of licence concerning the solicitation of advertising and to the station's technical parameters. In *Denial of applications proposing radio service for Québec and the region*, Broadcasting Decision CRTC 2006-351, of today's date, the Commission has denied the other competitive applications considered at the same public hearing.

The application

3. The Commission received an application by Corus to change the authorized contours for the French-language commercial radio programming undertaking CFEL-FM Montmagny by increasing the average effective radiated power (ERP) from 8,740 watts to 25,700 watts, by decreasing the antenna height and by relocating the transmitter. The proposed changes will affect the authorized contours, extending them to Québec's south shore area, including the city of Lévis and its surrounding area.

Interventions

4. The Commission received several interventions concerning this application. The majority of these interventions were in support of the application, some opposed it and one was a comment.
5. MBL Communication Média inc. (MBL) and Cogeco Diffusion inc. (Cogeco), the licensee of CJEC-FM and CJMF-FM Québec, expressed doubts as to the market's economic capacity to accommodate a new private commercial radio station. With respect to CFEL-FM, Cogeco claimed that the proposed ERP increase would, unnecessarily and without benefit, increase Corus's concentration and power in the Québec radio market. Cogeco added that the application should be denied because it [translation] "breaches the integrity of the geographic markets established by the Commission and the broadcasting licensing process."
6. The Association des radiodiffuseurs communautaires du Québec (ARCQ) opposed Corus's application because the increase in ERP would bring CFEL-FM into the Québec market and increase Corus's power in that same market. In particular, ARCQ expressed specific concerns about the impact on community radio station CFIN-FM Lac-Etchemin.
7. Radio Bellechasse, the licensee of community radio station CFIN-FM Lac-Etchemin, opposed the application, indicating that it is developing the Lévis market and that approval of the application would prevent it from accomplishing its goal and carrying out its plan.
8. Yves Sauvé, whose application to operate a new French-language FM station in Lévis was also considered at the 20 March 2006 Public Hearing, argued that the Montmagny and Lévis areas have nothing in common and that the increase in ERP is not warranted, given that CFEL-FM could, with the proposed contour changes, become a station in the Québec market. Mr. Sauvé added that CFEL-FM would not bring any diversity to the market and would only intensify the homogeneity of radio in the Québec market and increase Corus's power as a broadcaster.

9. The law firm of Bernier-Beaudry (Bernier-Beaudry) argued that the application for an amendment to CFEL-FM's licence was inadmissible because it was in fact a new application to expand to the greater Québec area and, as such, should have been the subject of a formal application. The intervener also pointed out that the application was not presented within the time frame set out in the Commission's call for applications.¹
10. Communications Lévis, whose application to operate a new French-language FM station in Lévis was also considered at the 20 March 2006 Public Hearing, opposed the application because it did not believe that including Lévis in the Montmagny-l'Islet region was the best way to ensure radio service to Lévis. The intervener questioned whether CFEL-FM was experiencing financial problems, given that it is part of Corus Entertainment Inc., whose financial situation is definitely strong.

Corus's reply

11. In response to MBL's intervention, Corus noted that MBL's comments did not represent a valid market analysis. Corus stated that its goal is not to serve Québec's central market, but rather to serve the city of Lévis and the Chaudière-Appalaches region.
12. In response to Cogeco's intervention, Corus noted first that Cogeco is one of the province's largest broadcasters, with five radio stations, eight television stations and the TQS television network. Corus further noted that, in its application, it proposed to serve the south shore region, i.e., the geographical market known by the name of the Chaudière-Appalaches region, which includes two major centres: the city of Montmagny and the city of Lévis. Corus added that it wants to treat this region separately by providing local radio service specific to the entire Chaudière-Appalaches region.
13. Corus noted ARCQ's acknowledgement that the residents of Lévis deserve local radio service. Corus added that the Chaudière-Appalaches region is not adequately served and that the proposed amendments would offer full coverage of the region, including its major centres, Montmagny and Lévis. Corus acknowledged that CFEL-FM's modified signal would include part of the city of Québec, but stated that the market it seeks to serve is Québec's south shore. With respect to the impact on the community radio station, Corus noted that all radio sectors are affected by the entry of other media and that developments in commercial radio cannot be prevented on the pretext that they will have an impact on community radio.
14. In response to Yves Sauvé's statement that Montmagny and Lévis have nothing in common, Corus noted that representatives of the city of Lévis disagreed with this statement and that, on the contrary, the south shore has its own specific media

¹ See *Call for applications for a broadcasting licence to carry on a French-language radio programming undertaking to serve Québec, Québec*, Broadcasting Public Notice CRTC 2004-49, 13 July 2004, as amended by Broadcasting Public Notice CRTC 2004-49-1, 14 September 2004, and by Broadcasting Public Notice CRTC 2004-49-2, 12 January 2005.

consumption trends and that the residents of Montmagny constitute a significant customer base for Lévis. Corus further noted that 25% of CFEL-FM's advertising revenues currently come from Lévis.

15. Concerning Bernier-Beaudry's intervention, Corus noted that the Commission amended the notice of public hearing five times during this proceeding, adding and deleting items. Corus added that the Commission is responsible for its proceedings and, as such, had the authority to add CFEL-FM's application to the hearing.
16. In response to the intervention by Radio Bellechasse, Corus noted that the intervener cited problems operating in largely rural areas. Corus also noted that Radio Bellechasse derives advertising revenues from Lévis and could continue doing so even if the Commission authorized CFEL-FM to increase its ERP.
17. Corus responded to Communications Lévis's intervention by noting that CFEL-FM is already active throughout the south shore region, and that it broadcasts its daily drive-home program from its Lévis studio, where it already has a journalist and an advertising salesperson and from which it brings in 25% of its advertising revenues. Corus added that the radio service offered in Montmagny would still be appropriate to that community, and that its application also proposed continuing to serve Montmagny, which is experiencing a significant economic downturn as evidenced in the market study attached to the application.

Commission's analysis and determination

18. Concerning the intervention by Bernier-Beaudry, the Commission determined that a new call for applications was not required in this case. The Commission further notes that the application to amend the licence for CFEL-FM Montmagny was considered in a competitive hearing.
19. The Commission notes that the proposed changes to CFEL-FM's technical parameters would change the station's authorized contours significantly in such a way that it would include a portion of the city of Québec and its surrounding area. Accordingly, the station could be considered as serving the Québec market, including Lévis.
20. Like all markets neighbouring major markets, the Montmagny market receives several signals from outside stations. Because of the Montmagny market's proximity to the Québec market, most Québec stations penetrate the Montmagny market and compete directly with local station CFEL-FM, which, according to BBM Bureau of Measurement listenership data, has captured only approximately one fifth of the audience share in its own market in recent years.
21. This situation has had an impact on the station's financial situation, with the station posting a deficit six times in the last ten years. This situation is further exacerbated by the current economic climate in the Montmagny market, which has been particularly hard-hit by plant closures that have led to significant job losses.

22. In addition to CFEL-FM's precarious financial situation, the Commission also considered the fact that the station already has a presence in Lévis, where it operates a studio that airs a daily program and has a reporter and sales representative. According to Corus, CFEL-FM's Lévis studio accounts for 25% of its advertising revenues, thus mitigating the potential impact of the proposed changes on the market.
23. The Commission notes Corus's commitments to better serve the south shore region located between Montmagny-l'Islet and Lévis. The licensee will add one journalist to the two currently employed by the station in order to provide the region with adequate coverage, while continuing to broadcast 5.75 hours of news each week. Corus will also continue offering two daily five-minute programs to non-profit organizations on the south shore, particularly those in Lévis and Montmagny.
24. To ensure a presence in its primary market, Montmagny, Corus committed, by **condition of licence**, to maintain the studios in Montmagny. It further committed to broadcast the daily morning show from Lévis and the drive-home show from Montmagny.
25. According to Corus, its application does not involve any change to the station's music format. Corus has committed, by **condition of licence**, to file an annual report on the diversity of French-language Canadian musical selections broadcast by the station.
26. The Commission notes that Corus currently participates in the Canadian talent development (CTD) plan established by the Canadian Association of Broadcasters, and has committed, by **condition of licence**, to increase its CTD expenditures to no less than \$42,858 per year, for a total of \$300,006 over a seven-year period. The annual expenditures are as follows:
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| MusicAction | \$14,285 |
| Fonds RadioStar | \$14,285 |
| Secondaire en spectacle | \$ 5,000 |
| Contribution to young artists at the Collège de Lévis | \$ 5,000 |
| Scholarships to graduates of École de radio de Montmagny | \$ 4,288 |
27. The Commission also notes that Corus has committed to offer a four-week internship to graduates of the École de radio de Montmagny in addition to the scholarships mentioned above.
28. The Commission is satisfied with the explanations and assurances given by Corus in response to the concerns raised about the proposed technical changes. The Commission considers that these technical changes will enable CFEL-FM to expand its authorized contours and thus better serve Québec's south shore region, optimize frequency use in the region and ensure the station's long-term survival.

29. Accordingly, the Commission **approves** the application by 591991 B.C. Ltd., a subsidiary of Corus Entertainment Inc., to change the authorized contours for the French-language commercial radio programming undertaking CFEL-FM Montmagny by increasing the average ERP from 8,740 watts to 25,700 watts, by decreasing the antenna height and by relocating the transmitter.

Issuance of the licence

30. The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
31. The Commission reminds the licensee that, pursuant to section 22(1) of the *Broadcasting Act*, this authority will only be effective when the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.

Secretary General

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>