



Broadcasting Decision CRTC 2009-507

Route reference: 2009-157

Ottawa, 20 August 2009

Groupe Radio Antenne 6 inc.
Alma and Roberval, Quebec

Applications 2009-0380-9 and 2009-0375-9, received 18 February 2009

Public Hearing in Québec, Québec

26 May 2009

CFGT Alma – Conversion to FM band and CHRL-FM Roberval – Technical change

*The Commission **approves** applications by Groupe Radio Antenne 6 inc. for a broadcasting licence to operate a French-language commercial FM radio station in Alma to replace the AM station CFGT and to change the authorized contours of the French-language commercial radio station CHRL-FM Roberval (Québec). The Commission is satisfied that the particular circumstances that led the applicant to file its applications warrant an exception to the common ownership policy.*

Introduction

1. The Commission received an application by Groupe Radio Antenne 6 inc. (Antenne 6) for a broadcasting licence to operate a French-language commercial FM radio programming undertaking in Alma to replace the AM station CFGT.
2. The station would operate at 97.7 MHz (channel 249B) with an average effective radiated power (ERP) of 50,000 watts (maximum ERP of 50,000 watts with an effective height of the antenna above average terrain of 77.6 metres).
3. The new station would offer an adult contemporary music format targeting women between the ages of 25 and 54. While the intent is that the new FM station would offer only local programming, the applicant made a commitment to offer a minimum of 42 hours of local programming and 15 hours of spoken word programming per broadcast week.
4. The applicant requested permission to simulcast the programming of the new FM station on CFGT for a period of three months from the date of implementation of the new FM station. The applicant also requested that the Commission revoke the licence of CFGT effective at the end of the simulcast period, pursuant to section 9(1)(e) of the *Broadcasting Act*.

5. The Commission also received an application from Antenne 6 to amend the authorized contours of the French-language commercial radio station CHRL-FM Roberval by decreasing the average ERP from 16,600 watts to 15,031 watts (maximum ERP of 50,000 watts with an effective height of the antenna above average terrain of 149.4 metres).
6. The Commission notes that it previously denied an application by Antenne 6 to convert CFGT to the FM band in Broadcasting Decision 2008-253. The Commission noted then that if it were to approve that application, the contours of the new station and those of CHRL-FM and CKYK-FM Alma would overlap. The licensee would thus control three FM stations in the same language and the same market, which exceeds the limit of two FM stations in the same language that a licensee may hold in a given market as per the common ownership policy set out in Public Notice 1998-41 and reaffirmed in Broadcasting Public Notice 2008-4. The Commission was also of the view that the applicant had not presented sufficient technical or economic reasons to justify an exception to the common ownership policy.
7. In support of the present applications, the applicant stated that the currently proposed amendment to the authorized contours of CHRL-FM will have a positive impact on its application to convert CFGT to the FM band, as it would enable the applicant to comply with the Commission's common ownership policy while preventing the authorized contours of its new FM station and its stations CHRL-FM and CKYK-FM from overlapping.
8. The applicant added that the two applications filed are non-severable.
9. The Commission did not receive any interventions in connection with the application to amend the authorized contours of CHRL-FM.
10. Regarding the application to convert CFGT to the FM band, the Commission received one comment from Astral Media Radio inc. concerning the possibility of interference with the signal of CFIX-FM Saguenay that could result from the approval of Antenne 6's application. The Commission notes that, according to the Department of Industry (the Department), the application by Antenne 6 is technically acceptable, as it meets the requirements of the *Broadcasting Procedures and Rules*.
11. The Commission also received an intervention opposing the application from Carl Gilbert, President and CEO of CKGS-FM La Baie. The interventions and the applicant's replies to the interventions can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

12. After examining the applications in light of applicable regulations and policies, and taking into account the interventions received and the applicant's replies to the interventions, the Commission considers that the issues to be addressed in its determinations are the following:
- Does approval of the application to convert CFGT to the FM band require an exception to the Commission's common ownership policy?
 - If so, is this exception warranted?

Does approval of the application to convert CFGT Alma to the FM band require an exception to the Commission's common ownership policy?

13. As set out in Public Notice 1998-41 and reaffirmed in Broadcasting Public Notice 2008-4, the Commission's common ownership policy permits the ownership by a licensee of no more than three stations in a given language in markets where fewer than eight commercial stations are operating in that language, with a maximum of two stations in any one frequency band.
14. Section 2 of the *Radio Regulations, 1986*, defines a "market" in the case of an FM station as the 3mV/m contour or the central area defined by BBM Canada (BBM), whichever is smaller. For the purpose of evaluating this application under the common ownership policy, given the absence of a central area as defined by BBM for Alma and Roberval, the Commission finds that the markets are best defined by the respective 3mV/m contours of the above-mentioned radio stations in those communities.
15. In his intervention, Carl Gilbert indicated that, with the conversion of CFGT to the FM band, Antenne 6 would control four radio stations in a given market on the same band: the new station, CHRL-FM, CKYK-FM and CHVD-FM Dolbeau-Mistassini. Carl Gilbert submitted that approval of the application would contravene the common ownership policy, clearly established by the Commission.
16. In its reply, Antenne 6 pointed out that the problems of overlap with its stations CKYK-FM and CHRL-FM set out in Broadcasting Decision 2008-253 will be resolved if the Commission approves the application for a technical amendment for CHRL-FM. The applicant stated that reducing the contours of CHRL-FM will prevent overlap with CKYK-FM, and that the application will comply with the Commission's common ownership policy.
17. The Commission notes that although the 3mV/m contour of CHVD-FM does not overlap the 3mV/m contour proposed in the application for the new FM station, it does overlap with that of CHRL-FM.

18. The Commission considers that approval of the application to convert CFGT to the FM band would result in the licensee exceeding the limit of two FM stations in the same language in any one frequency band in a given market allowed by the common ownership policy.

Is an exception to the common ownership policy warranted?

19. The Commission has approved exceptions to its common ownership policy in the past. However, to promote diversity in radio markets, the Commission considers that it should grant such exceptions only when a licensee clearly demonstrates economic need that calls into question the future financial viability of its existing radio stations in the relevant market, or the need to address clearly defined and demonstrated technical issues. The Commission notes that the onus falls on the licensee to demonstrate such economic or technical need.
20. Economically speaking, the Commission notes CFGT's very poor financial performance over the past several years, and recognizes that the strong competition from the many stations on the FM band has evidently contributed to a significant drop in the station's market share and revenues. The Commission considers that in the long term, as the last AM station in the Saguenay - Lac-St-Jean region, it will be increasingly difficult for CFGT to compete with FM stations. Further, the Commission considers that CFGT's conversion to the FM band will have a minimal impact on existing stations in the market.
21. Technically speaking, in response to a letter from the Commission, Antenne 6 stated that most of the territory on which the proposed 3mV/m contour of the new station overlaps with that of CHRL-FM covers a part of Lac-Saint-Jean, an uninhabited region including a provincial park, as well as an Indian reserve served by its own station.
22. The Commission also notes that the proposed power reduction for CHRL-FM significantly reduces land coverage in the inhabited area towards Alma.
23. The applicant also indicated that coverage of Alma by the signal of CKYK-FM is problematic because of the region's topography. The Commission is aware of Alma's unique topography and the technical challenges it poses for stations operating in the region.
24. In light of the above, the Commission considers that it would be appropriate to grant Antenne 6 an exception to the Common Ownership Policy.

Conclusion

25. In light of the above, the Commission **approves** the application by Groupe Radio Antenne 6 inc. for a broadcasting licence to operate an FM commercial radio programming undertaking in Alma to replace the AM station CFGT. The licence will be subject to the terms and **conditions** set out in the appendix to this decision.

26. The licensee is authorized, by **condition of licence**, to simulcast the programming of the new FM station on CFGT for a transition period of three months following the commencement of operations of the FM station. In accordance with sections 9(1)(e) and 24(1) of the *Broadcasting Act* and at the licensee's request, the Commission will **revoke** the broadcasting licence for CFGT at the end of the simulcast period.
27. The Commission reminds the licensee that it must adhere to the requirements relating to contributions to Canadian content development set out in section 15 of the *Radio Regulations, 1986*, as amended from time to time.
28. The Commission also **approves** the application by Groupe Radio Antenne 6 inc. to amend the authorized contours of the French-language commercial radio programming undertaking CHRL-FM Roberval by decreasing the average ERP from 16,600 watts to 15,031 watts (maximum ERP of 50,000 watts with an effective height of the antenna above average terrain of 149.4 metres).
29. 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.
30. 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

Related documents

- *CFGT Alma - Conversion to FM band*, Broadcasting Decision CRTC 2008-253, 11 September 2008
- *Diversity of voices – Regulatory policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- Commercial Radio Policy 1998, Public Notice CRTC 1998-41, 30 April 1998

This decision is to be appended to each 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 to Broadcasting Decision CRTC 2009-507

Terms and conditions of licence

Terms

Issuance of the broadcasting licence to operate a French-language commercial FM radio programming undertaking in Alma, Quebec

The licence will be effective 1 September 2009 and will expire 31 August 2016.

The station will operate at 97.7 MHz (channel 249B) with an effective radiated power (ERP) of 50,000 watts (maximum ERP of 50,000 watts with an effective height of antenna above average terrain of 77.6 metres).

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.

The Commission reminds the applicant that pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.

Furthermore, a licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 20 August 2011. In order to ensure that such a request is processed in a timely manner, it should be submitted in writing at least 60 days before that date.

Conditions of licence

1. The licensee will be subject to the conditions set out in *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. The licensee is authorized to simulcast the programming of the new FM station on CFGT Alma for a transition period of three months following the commencement of operations of the FM station.