



Broadcasting Decision CRTC 2011-660

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Route reference: 2011-1

Ottawa, 21 October 2011

La radio campus communautaire francophone de Shawinigan inc.
Shawinigan, Quebec

Application 2010-1457-1, received 9 September 2010

CFUT-FM Shawinigan – Licence amendment

*The Commission **denies** an application to amend to the broadcasting licence for the French-language community radio station CFUT-FM Shawinigan.*

Introduction

1. The Commission received an application by La radio campus communautaire francophone de Shawinigan inc. (Radio Shawinigan) to amend the broadcasting licence for the French-language community programming radio undertaking CFUT-FM Shawinigan, Quebec. The applicant proposed to change the frequency from 91.1 MHz (channel 216A1) to 88.1 MHz (channel 201B) and modify the authorized contours by increasing the average effective radiated power (ERP) from 199 to 8,235 watts (maximum ERP from 250 to 31,291 watts with an effective height of antenna above average terrain from 9.2 to 152.1 metres) and move the transmitter site from Shawinigan to Mont-Carmel.
2. The licensee stated that the proposed changes would result in a better quality signal to listeners, advertisers and partners located in the RCM of Shawinigan, Les Chenaux, Mékinac and Maskinongé, part of its authorized service area that is currently experiencing poor reception of CFUT-FM. The licensee also stated that this amendment would allow it to strengthen its financial position and ensure its long-term viability. The licensee added that it expects the impact on the market to be minimal.
3. The Commission notes that Radio Shawinigan is in apparent non-compliance with section 9(2) of the *Radio Regulations, 1986* (the Regulations) relating to the submission of annual returns. More specifically, the annual returns for the 2005-2006 to 2009-2010 broadcast years were submitted late.
4. The Commission received two interventions opposing the application: one from Groupe des médias étudiants de l'Université du Québec à Trois-Rivières,¹ licensee of

¹ On 14 June 2001, the licensee of CFUO-FM changed its name from Radio campus des étudiants de l'Université du Québec à Trois-Rivières to Groupe des médias étudiants de l'Université du Québec à Trois-Rivières.

the radio station CFOU-FM Trois-Rivières (CFOU-FM), and one from la Coop de solidarité radio communautaire RCM Maskinongé, licensee of CHHO-FM Louiseville (CHHO-FM). Radio Shawinigan replied to the two interventions. The public record for this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Interventions

5. According to CFOU-FM, the proposed amendments would cause great harm to its station. The intervener was of the view that the proposed new technical parameters, including the new site on Mont-Carmel, would allow Radio Shawinigan to broadcast with a strong signal over the entire area currently served by CFOU-FM. CFOU-FM also stated that it was concerned about the proposed frequency change, pointing out that Radio Shawinigan intended to move to frequency 88.1 MHz, which is right beside CFOU-FM's frequency, 89.1 MHz.
6. CFOU-FM submitted that the proposal would negatively impact its revenues because the advertising base dedicated to community media is very limited, and Radio Shawinigan has already started looking toward Trois-Rivières by way of its presence in the program for the most recent Trois-Rivières poetry festival, a major cultural event for the city with which CFOU-FM has partnered for over a decade.
7. CHHO-FM primarily opposed the amendment to the authorized contours. It noted that Radio Shawinigan's objective to strengthen CFOU-FM's financial position and ensure its long-term viability would be to the detriment of CHHO-FM's viability and pointed out that there would be a duplication of coverage in one RCM. Specifically, CHHO-FM noted that Radio Shawinigan did not take into account the fact that a large portion of the population affected by the proposed increase to its service area is already covered by CHHO-FM.
8. CHHO-FM was of the view that approval of the application would create unnecessary competition. It did not understand how Radio Shawinigan could consider the RCM of Maskinongé as one of its natural markets given that Shawinigan is located 62 kilometres from Louiseville, the RCM's principal – and only urban – municipality. CHHO-FM stated that its station's mission is local coverage of the RCM of Maskinongé and noted that its facilities are located less than seven kilometres from Louiseville. CHHO-FM also noted that eight of the 17 municipalities of the RCM of Maskinongé are included in the areas at which Radio Shawinigan's main marketing activities would be aimed. According to CHHO-FM, two community radio stations would be competing as much for listeners and advertising as for the recruitment of volunteers in close to 50% of the same area. CHHO-FM considered that Radio Shawinigan would not offer any added value to the population of the RCM of Maskinongé, given that CHHO-FM offers a complete radio service, including local news.

9. CHHO-FM concluded by submitting that if Radio Shawinigan's objective is to expand its reach in order to increase profits while minimizing involvement by the population in its operations, it should apply for a commercial radio licence instead.

Applicant's reply

10. In its reply to CFOU-FM, Radio Shawinigan reiterated that its new signal would not be received in Trois-Rivières because the proposed coverage would not permit it. It added that if its signal were received in Trois-Rivières, the quality of the signal would be poor and would not motivate listeners to tune to CFUT-FM. Radio Shawinigan explained that the risk of confusing the frequencies of the two stations already exists because its current frequency of 91.1 MHz (channel 216A1) is close to frequency 89.1 MHz (channel 206A1) on a radio tuner.
11. Radio Shawinigan considered that the amendment would not have any impact on CFOU-FM's revenue given that their target markets, listeners and advertisers are different. It reiterated that its programming is designed to respond to the expectations of consumers and organizations in the RCMs for which the social, cultural and economic centre is Shawinigan, not Trois-Rivières.
12. In its reply to CHHO-FM, Radio Shawinigan stated that the coverage map of its contours submitted to the Commission shows that the new signal would not be received in the entire RCM and that installation of a directional antenna would prevent an overlap in the entire RCM, which it does not consider part of its primary market. Radio Shawinigan reiterated that the municipalities of the RCM of Maskinongé are not included in its target markets.

Commission's analysis and decisions

13. After examining the public record for this application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:
 - Do the requested technical changes meet a demonstrated technical need?
 - Do the requested technical changes meet a demonstrated economic need?
 - Is the licensee in non-compliance during the current licence term?

Do the requested technical changes meet a demonstrated technical need?

14. The licensee indicated that the proposed technical changes would result in a better quality signal to listeners, advertisers and partners located in the RCMs of Shawinigan, Les Chenaux, Mékinac and Maskinongé, part of its licensed area that, according to the licensee, is currently experiencing poor reception of CFUT-FM. Radio Shawinigan submitted examples of letters of support from municipal, economic and social organizations, as well as commercial clients and political representatives testifying to the need for an increase to the station's coverage in order

to improve its service and increase the level of satisfaction of its listeners, advertisers and partners.

15. The Commission is of the view that the proposed technical changes would help increase the quality of the station's signal and that the letters filed by Radio Shawinigan bear witness to the signal reception difficulties in the area north of Shawinigan, where the topography varies and is uneven. However, the Commission is of the view that other technical options could have been proposed by Radio Shawinigan to avoid too large an expansion of its licensed area.

Do the requested technical changes meet a demonstrated economic need?

16. The Commission notes that CFUT-FM's revenues have been increasing since its launch in 2006. The Commission also notes that, with the technical parameters proposed, CFUT-FM would reach approximately 53% of the population of the RCM of Maskinongé that is not currently served by the station. Thus, 12,010 residents of the RCM of Maskinongé would be within the 3 mV/m contour of CFUT-FM, in addition to the 8,735 residents that, going forward, would be included in its 0.5 mV/m contour. To that effect, Radio Shawinigan indicated that it intended to focus part of its programming and marketing activities, i.e., the solicitation of advertising revenues, on the RCM of Maskinongé. Moreover, the Commission notes that this RCM has been served by community radio station CHHO-FM since 2006.
17. Accordingly, the Commission is of the view that the financial projections filed did not sufficiently show that the technical changes requested would meet a demonstrated economic need. Moreover, the Commission emphasizes that the changes would result in adding a radio station to the RCM of Maskinongé, which would lead to reduced advertising sales for CHHO-FM and thus have an undue negative impact on its viability.

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

18. Pursuant to section 9(2) of the Regulations, licensees are required to file, before 30 November of each year, their annual return for the broadcast year ending the previous 31 August. In this regard, Commission records show that CFUT-FM's annual returns for the 2005-2006 to 2009-2010 broadcast years were submitted late. Specifically, for the 2005-2006 broadcast year, the return was filed three months late; for 2006-2007, the return was filed five months late; for 2007-2008, the return was filed nine months late; for 2008-2009, the return was filed two months late; and, lastly, for 2009-2010, the return was filed four months late.
19. 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 also consider the circumstances leading to the non-compliance, the arguments provided by the licensee, as well as the measures taken to rectify the situation. In accordance with its

revised approach and based on the seriousness of the instances of non-compliance identified, the Commission will process the present application based on its merits.

20. The Commission considers that the non-compliance of the licensee is closely linked to its amendment application. While the licensee has mentioned a demonstrated financial problem, it has not respected the deadlines that the Commission has clearly established with respect to the submission of annual returns.
21. Further, the Commission advises the licensee that the non-compliance will be considered at the time of the renewal of its licence. The Commission will therefore review the circumstances that led to the non-compliance in question, the licensee's arguments, as well as the measures taken to rectify the situation.

Conclusion

22. In light of the foregoing, the Commission **denies** the application by La radio campus communautaire francophone de Shawinigan inc. to amend the broadcasting licence for the French-language community radio programming undertaking CFUT-FM Shawinigan.

Secretary General