



Broadcasting Notice of Consultation CRTC 2012-475-2

PDF version

Additional references: 2012-475 and 2012-475-1

Ottawa, 14 September 2012

Notice of hearing

7 November 2012
Gatineau, Quebec

Addition of application
Correction to item 2

Deadline for submission of interventions/comments/answers:
5 October 2012

[\[Submit an intervention/comment/answer or view related documents\]](#)

Further to Broadcasting Notices of Consultation 2012-475 and 2012-475-1, the Commission announces the addition of the following item and a correction to item 2 (**the correction is in bold**):

Preamble for item 25

The Commission received an application by CHMZ-FM Radio Ltd. (CHMZ Radio) for authority to acquire the assets of the English-language commercial radio programming undertaking CHMZ-FM Tofino, British Columbia, from McBride Communications & Media Inc. (McBride Communications) and Umeek Human Resources Development Inc. (Umeek), partners in West Island Radio Enterprises General Partnership (WIRE GP).

Since the transaction is opposed by Umeek and since the licensees appear to be in non-compliance with their regulatory obligations, this item will also be considered during the appearing phase of the hearing.

Item 25

CHMZ-FM Radio Ltd.
Tofino, British Columbia
Application 2011-1071-7

Application by **CHMZ-FM Radio Ltd.** for authority to acquire the assets of the English-language commercial radio programming undertaking CHMZ-FM Tofino, British Columbia, from McBride Communications and Umeek, partners in WIRE GP, and for a new licence to continue the operation of CHMZ-FM under the same terms and

conditions of licence as those in effect under the current licence, which expires on 31 December 2012.¹

History

This application was initially published in *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2012-212, 10 April 2012 (Broadcasting Notice of Consultation 2012-212).

CHMZ Radio is owned and controlled by its sole shareholder, Matthew McBride. The ownership and control of CHMZ-FM were disputed following the notice of intent to dissolve WIRE GP that Umeek allegedly communicated to McBride Communications on 1 June 2007. On 12 July 2007, CHMZ Radio filed an application (2007-1038-6) for authority to change the ownership of CHMZ-FM. The application was returned pending further clarifications regarding conflicting information provided by the partners.

On 1 February 2011, Mr. McBride, on behalf of WIRE GP, filed an application (2011-0306-9) to renew the broadcasting licence of CHMZ-FM. As a result of outstanding ownership issues and the above-mentioned circumstances, CHMZ Radio subsequently filed the present application to address the apparent non-compliance of the licensees resulting from the alleged change in the ownership and control of CHMZ-FM without the Commission's prior approval.

The application was published in Broadcasting Notice of Consultation 2012-212. On 8 May 2012, Umeek filed an intervention opposing the application on the basis that it continues to have an interest in the assets of CHMZ-FM and that Mr. McBride was not entitled to unilaterally acquire such assets. The application was subsequently withdrawn from *Notice of hearing*, Broadcasting Notice of Consultation CRTC 2012-212-1, 28 May 2012.

Current situation

As indicated in Broadcasting Notice of Consultation 2012-212, it appears that the effective control of CHMZ-FM may have been changed without the Commission's prior approval. Consequently, the licensees may be in apparent non-compliance with section 11(4)(a) of the *Radio Regulations, 1986* (the Regulations), which requires licensees to obtain the Commission's prior approval in respect of any act that would result in a change by whatever means of the effective control of the undertaking. The Commission may also discuss whether the licensees have been in compliance with section 10(1) of the Regulations, which specifies that except as otherwise provided pursuant to a condition of its licence, a licensee shall own and operate its transmitter. Furthermore, the Commission

¹ The licence was administratively renewed from 1 September 2011 to 31 March 2012 in *Administrative renewals – Corrections*, Broadcasting Decision CRTC 2011-556-1, 23 September 2011, from 1 April to 31 August 2012 in *Administrative renewals*, Broadcasting Decision CRTC 2012-164, 20 March 2012, and from 1 September to 31 December 2012 in *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2012-456, 28 August 2012.

may discuss whether the licensees have been in compliance with their condition of licence 1, which states that except as authorized by the Commission, the broadcasting undertaking shall be operated in fact by the licensees themselves.

It further appears that the licensees may have failed to comply with section 9(2) of the Regulations relating to the filing of annual returns. The Commission notes that the annual returns for the 2005-2006 and 2006-2007 broadcast years were filed late, namely on 11 December 2006 and 8 January 2008, respectively. Moreover, it appears that the annual return for the 2010-2011 broadcast year did not include financial statements for the broadcast year as of the date of filing.

Finally, it appears that the licensees may have failed to comply with section 15(2) of the Regulations concerning contributions to Canadian content development (CCD) for the 2008-2009 and 2009-2010 broadcast years, as well as with their condition of licence regarding contributions to Canadian talent development (CTD) ² for the 2005-2006 and 2007-2008 broadcast years. Specifically, it appears that the licensees had a \$400 shortfall for each of the 2005-2006 and 2007-2008 broadcast years as well as a \$500 shortfall for each of the 2008-2009 and 2009-2010 broadcast years.

Process

At the hearing, the Commission intends to inquire into CHMZ Radio's application as well as the aforementioned alleged instances of non-compliance. The Commission notes that CHMZ-FM is currently licensed to McBride Communications and Umeek, partners in WIRE GP. Given that the alleged non-compliance with condition of licence 1 and sections 10(1) and 11(4)(a) of the Regulations may have arisen as a result of actions taken by either or both parties, and since both parties have asserted certain perceived rights in association with the ownership and control of CHMZ-FM, the Commission requires that both McBride Communications and Umeek attend the public hearing to show cause why:

- the Commission should not approve the transaction as filed by CHMZ Radio;
- the Commission should not issue a mandatory order, which may be registered with the Federal Court, requiring that the licensees comply with the above-noted sections of the Regulations and condition of licence 1; and
- the Commission should not suspend or revoke the licence issued to McBride Communications and Umeek, partners in WIRE GP pursuant to sections 9 and 24 of the *Broadcasting Act*.

² As set out in *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006, the Commission replaced the expression "Canadian talent development" with "Canadian content development".

The Commission will consider the intervention and reply for this item already accepted and placed on the public file through Broadcasting Notice of Consultation 2012-212, as well as other interventions received in the context of this hearing.

The Commission also notes that additional information may be added to the public file after the publication of this notice. It encourages parties and interested persons to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.

Applicant's address:

10760 Fundy Drive
 Richmond, British Columbia
 V7E 5K7
 Fax: 604-288-2489
 Email: info@chmzfm.com
 Email to request electronic version of application: info@chmzfm.com

Correction to item 2

Montréal, Quebec
 Application 2012-0175-6

Application by 4517466 Canada Inc. for a broadcasting licence to operate a multilingual over-the-air ethnic television programming undertaking in Montréal to be known as ici (International Channel/Canal International).

Applicant's address:

9525 Christophe-Colomb Avenue
 Suite 4
 Montréal, Quebec
 H2M 2E3
 Fax: 514-385-0711
 Email: 4517466@gmail.com
 Email to request electronic version of application: 4517466@gmail.com

Procedure

Deadline for interventions/comments/answers

5 October 2012

The new *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, SOR/2010-277 (the Rules of Procedure), set out, among other things, the rules for content, format, filing and service of interventions and answers of respondents, the procedure for filing confidential information and requesting its disclosure, and the conduct of the public hearing. Accordingly, the procedure set out

below must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission’s website under “CRTC Rules of Practice and Procedure.”

An intervention or an answer from a respondent must be filed with the Commission and served on the applicant on or before the above-mentioned date. An answer from a respondent must also be served on any other respondent.

In accordance with the Rules of Procedure, a document must be filed with, not merely sent to, the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. The Commission takes no responsibility for postal delays and will not notify a party whose submission is received after the deadline date. Late submissions will not be considered by the Commission and will not be made part of the public file.

The intervention or answer must include one of the following statements in either the first or the last paragraph:

1. I request to appear at the public hearing.
2. I do not want to appear at the public hearing.

The applicant, respondents and interveners are permitted to coordinate, organize and file, in a single submission, interventions of other interested persons who share their position but do not wish to appear at the hearing as a “Joint Supporting Intervention.” More information on how to do so and a template for the covering letter to be filed by the parties can be found in *Changes to certain practices for filing interventions – Expansion of filing practices to include the filing of joint supporting comments for broadcasting policy proceedings*, Broadcasting Information Bulletin CRTC 2010-28-1, 10 December 2010.

Interventions and answers will be considered by the Commission and will form part of the public record of the proceeding without further notification to parties, provided the procedures set out in the Rules of Procedure and this notice have been followed. Parties will be contacted only if their submissions raise procedural questions.

Submissions must be filed by sending them to the Secretary General of the Commission by **only one** of the following means:

by using the
[\[Intervention/comment/answer form\]](#)

or

by mail to
 CRTC, Ottawa, Ontario K1A 0N2

or

by fax at
819-994-0218

A true copy of each intervention or answer from a respondent must be sent to the applicant and, in the case of a respondent to an application, to any other respondent.

The Commission advises those who file and serve by electronic mode to exercise caution when using e-mail for service of documents, as it may be difficult to establish that service has occurred.

Parties must ensure that, before initiating service through electronic mode, they will be able to satisfy the Commission, upon request, that service was completed. The sender must keep proof of the sending and the receipt of the document for 180 days after the day on which it is filed.

Submissions longer than five pages should include a summary.

Each paragraph of the submission should be numbered. In addition, where the intervention is filed by electronic means, the line *****End of document***** should be entered following the last paragraph of the document, as an indication that the document has not been altered during electronic transmission.

Interventions and answers must clearly identify the application referred to and indicate whether parties support or oppose the application, or, if they propose changes to it, include the facts and grounds for their proposal.

In the event that an application to be considered during the non-appearing phase of the hearing is brought to the oral phase of the hearing, and if parties wish to appear, they must provide reasons why their written interventions or answers are not sufficient and why an appearance is necessary. Parties requiring communication support must state their request on the first page of their intervention. Only those parties whose requests to appear have been granted will be contacted by the Commission and invited to appear at the public hearing.

Persons requiring communications support such as assistance listening devices and sign language interpretation are requested to inform the Commission at least twenty (20) days before the commencement of the public hearing so that the necessary arrangements can be made.

Important notice

All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, e-mail or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.

The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.

The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

The Commission encourages parties and interested persons to monitor the record of the proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.

Examination of documents

An electronic version of the applications is available on the Commission's website by selecting the application number within this notice. It is also available from the applicants/licensees, either on their websites or upon request by contacting the applicants/licensees at their email addresses, provided above.

A list of all interventions and answers will also be available on the Commission's website. The list is accessible by selecting "View all proceedings open for comment" from the "Public Proceedings" section of the Commission's website and clicking on the "Interventions/Answers" link associated with this notice.

Documents are also available during normal office hours at the Commission offices and documentation centres directly involved with these applications, or, upon request, within two (2) working days, at any other Commission offices and documentation centres.

Location of Commission offices

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage, Room 206
Gatineau, Quebec
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Fax: 819-994-0218

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Secretary General