



## Broadcasting Decision CRTC 2012-527

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Route reference: 2012-300

Ottawa, 28 September 2012

### **Radio Haute Mauricie inc.**

La Tuque, Quebec

*Application 2012-0403-1, received 26 March 2012*

*Public hearing in the National Capital Region*

*18 July 2012*

### **CFLM La Tuque – Conversion to the FM band**

*The Commission **approves** the application by Radio Haute Mauricie inc. for a broadcasting licence to operate a French-language commercial FM radio station in La Tuque, Quebec, to replace its AM station CFLM.*

#### **The application**

1. The Commission received an application by Radio Haute Mauricie inc. for a broadcasting licence to operate a French-language commercial FM radio programming undertaking in La Tuque, Quebec, to replace its AM station CFLM. The Commission did not receive any interventions concerning this application.
2. Radio Haute Mauricie inc. is owned and controlled by Ann Armstrong.
3. The new station would operate at 97.1 MHz (channel 246B) with an average effective radiated power (ERP) of 18,230 watts (maximum ERP of 32,000 watts with an effective height of antenna above average terrain of 127.3 metres).
4. The applicant proposed to maintain CFLM's current music format, i.e. Popular Music, Rock, Dance and Country. The local programming would include 50 hours per broadcast week devoted solely to spoken word programming, 10 hours of which would be news.
5. The station would operate in a single-station market as defined in Public Notice 1993-121.

#### **Instance of non-compliance**

6. Section 15(4) of the *Radio Regulations, 1986* (the Regulations) states that licensees must devote at least 60% of their basic annual Canadian content development (CCD) contribution to FACTOR or MUSICACTION.

7. In Broadcasting Decision 2010-879, the Commission renewed the broadcasting licence of CFLM La Tuque for a short-term period of four years, until 31 August 2014. This short-term renewal was due to the licensee's non-compliance with respect to section 15(4) of the Regulations in relation to CCD contributions for the 2008-2009 broadcast year.
8. The Commission notes that according to its records the shortfall in contributions to be allocated to FACTOR or MUSICACTION noted in Broadcasting Decision 2010-879 still has not been met by the licensee.
9. In addition, as part of this process, the Commission notes that the licensee may have failed to comply with section 15(4) of the Regulations for the 2010–2011 broadcast year. The licensee was notified of this non-compliance in a letter by Commission staff dated 9 May 2012. In its response to the Commission, also dated 9 May 2012, the licensee indicated that it was not aware of this regulatory requirement and that it had not received an invoice from MUSICACTION. However, in order to rectify the situation, the licensee indicated that it had contacted MUSICACTION to confirm the unpaid amounts and to request that an invoice be sent to the station on an annual basis going forward.

### **Commission's analysis and decision**

10. In Broadcasting Information Bulletin 2011-347, the Commission announced a revised approach to dealing with radio stations found in non-compliance. The Commission noted in particular that each instance of non-compliance would be evaluated in light of factors such as the quantity, recurrence and seriousness of the non-compliance. The Commission also noted that it would take into account the circumstances leading to the non-compliance in question, the licensee's arguments and the measures taken to rectify the situation. The Commission further indicated that possible sanctions consist of a short-term licence renewal, the imposition of conditions of licence or mandatory orders and the non-renewal or suspension of the licence.
11. In the present case, the Commission finds it appropriate to approve the application by Radio Haute Mauricie inc. to convert CFLM La Tuque to the FM band. However, given the licensee's non-compliance, the Commission finds it appropriate to grant the new broadcasting undertaking a short-term licence period of three years.
12. Accordingly, the Commission **approves** the application by Radio Haute Mauricie inc. for a broadcasting licence to operate a French-language commercial FM radio programming undertaking in La Tuque, Quebec, to replace its AM station CFLM. The licence will expire 31 August 2015. This short-term licence period will allow for an earlier review of the licensee's compliance with its conditions of licence and the Regulations. The licence will be subject to the terms and **conditions of licence** set out in the appendix to this decision.

13. Further, the Commission expects the licensee to file proof of payment of the shortfall in CDD contributions to be paid to FACTOR or MUSICACTION by no later than **3 January 2013**.

### **Canadian content development**

14. The Commission reminds Radio Haute Mauricie inc. that it must adhere to the requirements relating to contributions to CCD set out in section 15 of the Regulations, as amended from time to time. The Commission reminds the licensee that any development initiatives that have not been allocated to specific parties by condition of licence must be allocated to the support, promotion, training and development of Canadian musical and spoken word talent, including journalists. Parties and initiatives eligible for CCD funding are identified in paragraph 108 of Broadcasting Public Notice 2006-158.

### **Simulcast period and revocation of AM licence**

15. As set out in the appendix to this decision, Radio Haute Mauricie inc. is authorized to simulcast the programming of the new FM station on CFLM for a transition period of three months following the commencement of operations of the FM station. Pursuant to sections 9(1)(e) and 24(1) of the *Broadcasting Act* and consistent with the licensee's request, the Commission **revokes** the licence for CFLM effective at the end of the simulcast period.

Secretary General

### **Related Documents**

- *Revised approach to non-compliance by radio stations*, Broadcasting Information Bulletin CRTC 2011-347, 26 May 2011
- *CFLM La Tuque – Licence renewal*, Broadcasting Decision CRTC 2010-879, 26 November 2010
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *Local programming policy for FM radio – Definition of a single-station market*, Public Notice CRTC 1993-121, 17 August 1993

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

# Appendix to Broadcasting Decision CRTC 2012-527

## Terms, conditions of licence and encouragement

### Terms

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

The licence will expire 31 August 2015.

The new station will operate at 97.1 MHz (channel 246B) with an average effective radiated power (ERP) of 18,230 watts (maximum ERP of 32,000 watts with an effective height of antenna above average terrain of 127.3 metres).

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

Furthermore, the 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 **28 September 2014**. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

### Conditions of licence

1. The licensee shall adhere 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 CFLM for a transition period of three months following the commencement of operations of the FM station.

### Encouragement

#### Employment equity

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.