



Broadcasting Decision CRTC 2012-576

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Route reference: 2012-29

Ottawa, 19 October 2012

Dufferin Communications Inc.
Hudson/St-Lazare, Quebec

Application 2010-0216-2, received 11 February 2010
Public hearing in the National Capital Region
21 March 2012

English-language FM radio station in Hudson/St-Lazare

*The Commission **approves** an application for a broadcasting licence to operate an English-language commercial FM radio station in Hudson/St-Lazare.*

The application

1. The Commission received an application by Dufferin Communications Inc. (Dufferin) for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Hudson/St-Lazare.
2. Dufferin is a wholly owned subsidiary of Evanov Communications Inc., a corporation controlled by Mr. William Evanov.
3. The station would operate at 106.7 MHz (channel 294A) with an effective radiated power of 500 watts (non-directional antenna with an effective height of antenna above average terrain of 94 metres).
4. The applicant indicated that its proposed station would be a first radio service for Hudson/St-Lazare. The station would offer a Soft Adult Contemporary/Easy Listening music format. The applicant indicated that it would broadcast a minimum of 110 hours of local programming each broadcast week, including 11 hours and 47 minutes of spoken word programming, 4 hours and 22 minutes of which would consist of pure news (50% of which would be local). The station would also feature weather, sports, health and business segments and a community calendar, as well as entertainment features. The applicant further stated that it would accept a condition of licence requiring it to devote no less than 40% of its category 2 (Popular Music) selections each broadcast week to Canadian selections.

Interventions

5. The Commission received interventions in support of the application, including from the town of Hudson, as well as a comment from an individual. The Commission also

received opposing interventions from a number of individuals, as well as from Canadian Hellenic Cable Radio Ltd. (CHCR), Cogeco Diffusion Inc. (Cogeco), Communications Michel Mathieu in its capacity as broadcasting consultant for CJVD-FM Vaudreuil-Dorion (CMM) and Fondation Radio Enfant (Radio Enfant). The public record for this application can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

6. Cogeco submitted that a call for applications should have been issued considering that the proposed frequency was one of the rare frequencies still available in the Montréal market. Cogeco added that Dufferin's proposal for an English-language service was not financially viable and was not the best use of the frequency given that the majority of potential listeners in the region are Francophones. Finally, Cogeco raised concerns that Francophone listeners in the Montréal region would migrate to the proposed English-language station.
7. CHCR submitted that the proposed station would negatively impact Montréal radio stations, including its own radio station CKDG-FM. CHCR added that the proposal was not financially viable and did not represent the best use of the frequency, arguing that 106.7 MHz was better suited to serve the Montréal market. CMM stated that the station would have a negative financial impact on CJVD-FM and requested that the Commission set aside the application in order to allow it to submit a competing application for a change of frequency.¹ Finally, Radio Enfant submitted that it wished to submit an application for the use of 106.7 MHz in Montréal and indicated that the current proposal would interfere with this application.²

Applicant's reply

8. In its reply, Dufferin stated that a call for applications was not warranted given that its proposal met the criteria for a first English-language service for the Hudson/St-Lazare market. Dufferin submitted that the use of 106.7 MHz for such a service represented the best use of the frequency, noting that the contour maps provided by CHCR demonstrating possible coverage of Montréal using this frequency did not cover the Hudson/St-Lazare market. Dufferin further submitted that its financial forecasts for the proposed station were realistic, that it currently operates several radio stations (some in similar-size markets) and that it has the financial capacity to support the establishment of another station in this type of market.

¹ The Commission notes that it received an application by CMM on behalf of CJVD-FM to change the station's frequency from 100.1 MHz to 106.7 MHz. The Commission notes that CJVD-FM's application was received on 21 March 2012, which was well after the close of record for Dufferin's application. The Commission further notes that this application is technically mutually exclusive with Dufferin's proposal and that it was placed on hold pending a determination on the present application.

² The Commission notes that Radio Enfant has not submitted an application for the use of 106.7 MHz.

9. With respect to the issue of the proposed station's impact on stations in adjacent markets, Dufferin maintained that it had no intention of serving the Montréal market, noting that the proposed service would have a limited coverage area and that the signal would not reach Montréal. Dufferin further indicated that it would be specifically targeting the Hudson and St-Lazare audience with English-only programming, which would limit the proposed service's impact on stations operating in nearby markets, including the French-language station CJVD-FM. Finally, Dufferin noted that the proposed service contours would not overlap with those of CHCR's station CKDG-FM, which is an ethnic service and thus targets a different audience than that of its proposed station.

Commission's analysis and decisions

10. Under the *Radio Regulations, 1986* (the Regulations), the market of an FM station is defined as the station's 3 mV/m contour or the central area as defined by BBM, whichever is smaller. In this case, the 3 mV/m contour defines the market of the proposed station.
11. In *Revised policy concerning the issuance of calls for radio applications and a new process for applications to serve small markets*, Broadcasting Public Notice CRTC 2006-159, 15 December 2006, the Commission stated that proposals to provide a first commercial service in the other official language in a market would not generally result in a call for applications. The Commission has traditionally made a distinction between French- and English-language radio services serving the same geographical area and generally considers these stations as operating in two separate and distinct markets.
12. The Commission notes that the proposed station's market, as defined by the 3 mV/m contour, does not encompass the nearby cities of Vaudreuil-Dorion and Salaberry-de-Valleyfield, nor does it reach the greater Montréal area. The Commission further notes that while the signals of several English-language radio stations originating from the Montréal market reach into the communities of Hudson and St-Lazare and while these two communities are also served by the French-language commercial stations CKOD-FM Salaberry-de-Valleyfield and CJVD-FM, none of these services originate from Hudson and St-Lazare.
13. Based on all of the above, the Commission is of the view that the application by Dufferin represents a proposal for a first English-language commercial radio service in the Hudson/St-Lazare market. Further, given that the proposed station would only reach the west-end of the Island of Montréal with its secondary contour (0.5 mV/m), the Commission agrees with the applicant that the service would not have a significant impact on stations serving the Montréal market. As for CJVD-FM, the Commission notes that the station is a French-language service, whereas Dufferin's application is for an English-language service. Consequently, although there would be some overlap within the two stations' main contours, the Commission, as noted above, has traditionally distinguished between French- and English-language radio services serving the same geographical area and generally considers these stations as

operating in two separate and distinct markets. The Commission sees no reason to deviate from this practice in this case. As such, the Commission finds that it was not necessary to issue a call for competing applications prior to considering Dufferin's application.

14. With respect to the use of the proposed frequency in Montréal, the Commission notes that 106.7 MHz is second adjacent to 106.3 MHz, the frequency for CKIN-FM Montréal, which is operated by CHCR. Further, the Commission notes that both the Department of Industry and the Commission have generally avoided licensing new FM stations that are second adjacent to incumbent stations in the same market due to the significant potential for interference and associated service loss to existing services, new entrants or both.
15. The Commission further notes that this frequency was vacated by Aboriginal Voices Radio in April 2009. Since then, the Commission has received only one technical amendment application for its use in Montréal. The application was filed by CHCR and was subsequently withdrawn.
16. In light of the technical limitations regarding the use of 106.7 MHz in Montréal and the lack of applications for its use in that market, the Commission is of the view that granting the use of 106.7 MHz in Montréal is not viable.
17. The Commission further considers that Dufferin would introduce a valuable local service and add diversity to the Hudson/St-Lazare market. Specifically, the service would provide these communities with significant local reflection and programming diversity, especially in terms of local news, as compared to programming currently received from out-of-market stations. The service would also introduce a first local English-language service to an official language minority community. In this respect, the Commission notes that according to the 2006 Census, 80% of the population of Hudson (5,085) and 45% of the population of St-Lazare (17,015) identified English as the language spoken most often at home, revealing a solid core of approximately 22,000 residents who predominantly use the English language.
18. Based on the preceding, the Commission considers that Dufferin's application for an English-language FM station serving Hudson/St-Lazare represents the best use of the 106.7 MHz frequency.

Conclusion

19. In light of all of the above, the Commission **approves** the application by Dufferin Communications Inc. for a broadcasting licence to operate an English-language commercial FM radio programming undertaking in Hudson/St-Lazare. The terms and **conditions of licence** are set out in the appendix to this decision.

Canadian content development

20. The Commission reminds the applicant that it must adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15

of the Regulations, as amended from time to time. In addition, in its application Dufferin made commitments to exceed the minimum contribution to CCD. Specifically, Dufferin committed to devote by condition of licence, over and above the basic annual contribution to CCD, a total of \$65,000 to CCD over seven broadcast years upon commencement of operations, to be allocated to MUSICACTION.

Employment equity

21. Because this applicant is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, its employment equity practices are not examined by the Commission.

Secretary General

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

Appendix to Broadcasting Decision CRTC 2012-576

Terms, conditions of licence and expectation for the English-language commercial FM radio programming undertaking in Hudson/St-Lazare, Quebec

Terms

The licence will expire 31 August 2019.

The station will operate at 106.7 MHz (channel 294A) with an effective radiated power of 500 watts (non-directional antenna with an effective height of antenna above average terrain of 94 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 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 **19 October 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 standard conditions of licence set out in *Conditions of licence for commercial AM and FM radio station*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009.
2. As an exception to the percentage of Canadian musical selections set out in sections 2.2(8) and 2.2(9) of the *Radio Regulations, 1986* (the Regulations), the licensee shall devote a minimum of 40% of its musical selections from content category 2 (Popular Music) in any broadcast week to Canadian selections broadcast in their entirety.

For the purposes of this condition, the terms “broadcast week,” “Canadian selection,” “content category” and “musical selection” shall have the same meaning as that set out in the Regulations.

3. In addition to the basic annual contribution to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, the licensee shall make a contribution of \$65,000 to CCD, to be allocated as follows over seven consecutive broadcast years upon commencement of operations: \$10,000 in year one, \$9,500 in each of years two and three and \$9,000 in each of years four through seven.

Of this amount, the licensee shall allocate at least 20% to FACTOR or MUSICACTION on an annual basis. The remainder of this additional CCD contribution shall be allocated to parties and initiatives fulfilling the definition of eligible initiatives set out in paragraph 108 of *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006.

Expectation

Cultural diversity

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.