



Broadcasting Decision CRTC 2014-238

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Ottawa, 15 May 2014

Radio-Classique Montréal inc.
Montréal, Quebec

Application 2013-1431-9

Complaint by Radio-Classique Montréal inc. regarding advertising broadcast on Espace Musique

The Commission dismisses a complaint by Radio-Classique Montréal inc. regarding advertising broadcast on the Canadian Broadcasting Corporation's French-language network Espace Musique.

Background

1. In Broadcasting Decision 2013-263, the Commission authorized the Canadian Broadcasting Corporation (CBC) to introduce national advertising on Radio 2 and Espace Musique. The Commission imposed on the CBC a condition of licence to that effect for a period of three years.
2. In Broadcasting Decision 2014-135, the Commission approved applications by the CBC to amend that condition of licence. The condition of licence applies to the network and to the radio stations of the English- and French-language services Radio 2 and Espace Musique, respectively, and reads as follows:
 11. The licensee shall not broadcast any advertising (category 5) except:
 - a) paid national advertising;
 - b) during programs that are available only on a sponsored basis; or
 - c) as required to fulfill the requirements of the legislation of the Parliament of Canada pertaining to elections.

For the purposes of this condition, the licensee may not broadcast more than four minutes of paid national advertising in any clock hour.

Music programming may not be interrupted more than twice during any clock hour for paid national advertising. For the purposes of this paragraph, the mention of a sponsor's name or the inclusion of a sponsor promotion within a sponsored program shall not qualify as an interruption of the music programming.

Complaint

3. In a letter dated 29 October 2013 and addressed to the Secretary General, Radio-Classique Montréal inc. (Radio-Classique) filed a complaint with the Commission regarding advertising broadcast on Espace Musique.
4. Radio-Classique is the licensee of the specialty commercial radio station CJPX-FM Montréal, Quebec, which broadcasts classical music.
5. Radio-Classique stated that in September 2013, the CBC made media placement proposals for Espace Musique with the Montreal Chamber Orchestra (MCO) without going through an advertising agency. The MCO is also a client of Radio-Classique.
6. Radio-Classique expressed the view that the MCO is a local orchestra with classical music lovers in the Greater Montréal area as its target audience. Consequently, according to Radio-Classique, the CBC took steps towards local advertising sales, contrary to its condition of licence relating to advertising and its commitment to solicit or accept national advertising only from businesses and organizations of national interest.
7. Radio-Classique requested that the Commission launch an investigation into this issue and order the CBC to cease taking steps towards local media placements with potential clients.
8. The advertisement in question, broadcast by Espace Musique last October, is summarized as follows:

[TRANSLATION] The Montréal Chamber Orchestra's 40th season begins on October 22 with its Domtar Discovery Series. The Orchestra will feature cornet virtuoso Frédéric Demers (...) Tuesday, October 22 at 8 p.m. at the Bourgie Concert Hall. For subscription and ticket information, call 514-285-2000.

CBC's reply

9. The CBC acknowledged that Espace Musique broadcast advertising for the MCO between 14 and 20 October 2013, but submitted that the complaint by Radio-Classique is unfounded.
10. According to the CBC, the MCO is a national orchestra because the scope of its objectives and activities goes well beyond the Montréal area. It further argued that the MCO advertisements were placed through Groupe Force Radio, Espace Musique's national representation firm.
11. Finally, the CBC indicated that the MCO advertisements were broadcast throughout Quebec and Eastern Ontario, on all Espace Musique stations serving Canadian markets where French is the majority language. According to the CBC, the MCO chose to broadcast its advertisement on Espace Musique to meet its national advertising objectives.

Interventions

12. In accordance with Part 1 of the Commission's *Rules of Practice and Procedure*, set out in Broadcasting Regulatory Policy 2010-958, the complaint was published on the Commission's website on 14 November 2013. The intervention period ended 16 December 2013. The Commission received an intervention from an individual, who considered that CJPX-FM is fragile and that Espace Musique should respect the definition of national advertising.
13. Radio-Classique did not respond to the CBC's reply or the individual's intervention.

Commission's analysis and decision

14. After examining the public record for this complaint in light of applicable regulations and policies, the Commission considers that the issue it must address is whether the broadcast of MCO advertisements by Espace Musique complies with the CBC's condition of licence relating to national advertising.
15. The CBC is prohibited by condition of licence from broadcasting any advertising with the exceptions of advertising during programs that are available only on a sponsored basis, election-related advertising, or "paid national advertising."
16. In paragraph 238 of Broadcasting Decision 2013-263, the Commission set out the following regarding the paid national advertising that the CBC is authorized to broadcast for a temporary three-year period (our emphasis in bold):

The Commission considers revenues from paid national advertising to be revenues for national advertising, net of any advertising agency commissions and trade discounts. National advertising sales are generally commissionable to the station's national representative. The Commission further notes the CBC's commitment to only solicit and accept national advertising from **companies or organizations that have a national interest in reaching the Canadian consumer**.

17. This clarification allows the Commission to ensure that the advertising the CBC may broadcast remains national in scope so as to reduce the undue negative impact on local advertising markets. Further to this, in a letter from the CBC dated 13 August 2012 regarding national advertising, the CBC confirmed that the condition of licence as formulated above would not allow it to broadcast regional advertising.
18. In this regard, the Commission notes that the OCM's advertisements were broadcast by all of Espace Musique's stations serving Canadian markets where French is the majority language. Moreover, these messages were placed through Espace Musique's national representation firm, the Groupe Force Radio, which is the Quebec partner of Canadian Broadcast Sales.

Conclusion

19. In light of the foregoing, the Commission considers that the MCO advertisement broadcast by the CBC on Espace Musique is compliant with the CBC's condition of licence related to paid national advertising, as set out in Broadcasting Decision 2013-263 and amended in Broadcasting Decision 2014-135. Accordingly, the Commission **dismisses** the complaint by Radio-Classique Montréal inc. regarding the broadcast of the MCO's advertisement on Espace Musique.

Secretary General

Related documents

- *Espace Musique and Radio 2 networks and stations – Licence amendment*, Broadcasting Decision CRTC 2014-135, 25 March 2014
- *Canadian Broadcasting Corporation – Licence renewals*, Broadcasting Decision CRTC 2013-263 and Broadcasting Orders CRTC 2013-264 and 2013-265, 28 May 2013
- *Implementation of new Rules of Practice and Procedure*, Broadcasting and Telecom Regulatory Policy CRTC 2010-958, 23 December 2010