



Broadcasting Decision CRTC 2020-335

PDF version

References: 2020-54, 2020-54-1 and 2020-54-2

Ottawa, 16 September 2020

Aujourd'hui l'Espoir

Brownsburg-Chatham, Quebec

Public record for this application: 2019-0963-1

Virtual public hearing in the National Capital Region

8 June 2020

Christian music FM radio station in Brownsburg-Chatham

*The Commission **approves** an application by Aujourd'hui l'Espoir for a broadcasting licence to operate a French-language specialty (Christian music) FM radio station in Brownsburg-Chatham, Quebec.*

Application

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue broadcasting licences for such terms not exceeding seven years and subject to such conditions related to the circumstances of the licensee as it deems appropriate for the implementation of the broadcasting policy set out in section 3(1) of the Act.
2. Consistent with that authority, Aujourd'hui l'Espoir (Espoir) filed an application for a broadcasting licence to operate a French-language specialty (Christian music) FM radio station in Brownsburg-Chatham, Quebec.
3. The station would operate at 102.7 MHz (channel 274A1) with an effective radiated power of 250 watts and an effective height of the antenna above average terrain of -17.6 metres.
4. Espoir is a not-for-profit charitable corporation controlled by its board of directors.
5. The applicant indicated that the station's music programming would primarily include Christian music. Specifically, Espoir committed to broadcast, during each broadcast week, 90% music drawn from content sub-category 35 (Non-classic religious), of which 20% of the musical selections broadcast would be Canadian. The applicant also proposed to devote 5% of musical selections in each broadcast week to Canadian emerging artists.

6. Espoir proposed to devote 90% of the station's programming to French-language programs, 9% to English-language programs and 1% to programs in other languages.
7. In its application, Espoir indicated that it was prepared to commit to broadcasting at least 45% local programming per broadcast week. However, it intended to broadcast 13 hours of local programs per broadcast week upon commencement of operations, but explained that, in fact, all the programs would be local, with the exception of Bible teaching programs that would represent 5 hours per broadcast day. Then, following the clarification process, Espoir confirmed that it would comply with an obligation to broadcast 98.5 hours of local programming per broadcast week.
8. With regard to spoken-word programming, the applicant stated that it intends to broadcast, during each broadcast week, interviews with local community leaders, heads of organizations and local singers, among others. It added that the station would broadcast 8 minutes of news per broadcast day from Monday to Friday, for a total of 40 minutes per broadcast week. News would include local news and weather bulletins for Brownsburg-Chatham residents during the morning programs as well as programs broadcast during the afternoon commute.
9. Espoir proposed to pay an over-and-above contribution of \$26,000 to Canadian content development (CCD) over a seven-year period.
10. Finally, the applicant indicated that it would present programs offering various views on religion and matters of public interest.

Interventions

11. The Commission received several interventions in support of this application as well as an opposing intervention from an individual.
12. In the opposing intervention, the individual submitted that the owners and operators of Christian stations often forget the regulatory obligations related to the operation of such a programming undertaking. In his view, religion is a very sensitive subject, and he was concerned with the fact that comments that are not in accordance with religious broadcasting policy could be offensive to certain individuals.
13. In reply to the opposing intervention, Espoir stated that it intended to be transparent with respect to its programming and that it would not broadcast programming that would not comply with its broadcasting licence without first requesting amendments to its licence.

Commission's analysis and decisions

14. When evaluating an application for a new commercial station, the Commission generally considers, among other things, the quality of the business plan, including the proposed format, plans for local programming and other matters related to the operation of the proposed station.

15. The Commission considers that the onus is on the applicant to provide a quality application and to demonstrate an understanding of the regulatory requirements associated with operating a radio programming undertaking. The Commission also expects the applicant to provide sufficient details in support of its application to allow for a thorough analysis of that application.

Ownership

16. Section 3(1)(a) of the Act states that the Canadian broadcasting system shall be effectively owned and controlled by Canadians. In this regard, and in accordance with the *Direction to the CRTC (Ineligibility of non-Canadians)*, which prevents licensing of non-Canadians, the Commission examines closely the ownership structure of each applicant.
17. In Broadcasting Decision 2018-446, the Commission examined Esprit's effective control. The Commission then noted that Galcom International (Galcom), a non-Canadian corporation, was the primary source of funding for the broadcasting equipment, providing equipment to the applicant, and that Trans World Radio, also a non-Canadian corporation, would provide part of its programming. In that same decision, the Commission also noted that no agreements would be signed to obtain donations from these corporations, that Esprit confirmed that it would be the sole owner of all the equipment provided by Galcom and that it would produce the majority of its programming from its own Québec-based studio. For these reasons, the Commission considered that Galcom and Trans World Radio would not exercise control over the applicant.
18. In this application, the applicant indicated that Galcom would provide financial help to cover the initial costs of the equipment.
19. As stipulated in a broadcasting undertaking's licence, the undertaking shall be operated in fact¹ by the licensee itself, and the licence cannot be transferred or assigned. The Commission considers that the appropriate test for assessing control in fact is set out in Decision No. 297-A-1993 of the Canadian Transportation Agency:

There is no one standard definition of control in fact but generally, it can be viewed as the ongoing power or ability, whether exercised or not, to determine or decide the strategic decision-making activities of an enterprise. It can also be viewed as the ability to manage and run the day-to-day operations of an enterprise. Minority shareholders and their designated directors normally have the ability to influence a company as do others such as bankers and employees. The influence, which can be

¹ "Control in fact" relates to the ongoing power or ability, whether exercised or not, to determine or decide strategic decision-making activities of an enterprise.

exercised either positively or negatively by way of veto rights, needs to be dominant or determining, however, for it to translate into control in fact.

20. In assessing control in fact, the Commission notes that each case is unique and that the facts of each case will determine the specific factors that are relevant for such an assessment.
21. As per the applicant's by-laws, the effective control of Espoir is exercised by its board of directors. All the members of the board of directors, as well as Espoir's chief executive officer, are Canadians residing in Canada.
22. In the present case, Espoir specified that it was debt-free and that its cash flow should allow it to handle other matters as they arise. The applicant indicated that its projected annual revenues are significantly higher than the cost of the equipment provided by Galcom, which leads the Commission to find that Galcom would not have the ability to influence the strategic decision-making process of the service or to manage its day-to-day operations. Further, should Galcom withdraw from its commitment to help finance the initial cost of the broadcasting equipment, the applicant would have the financial ability to purchase the equipment.
23. In light of the above, the Commission finds that Espoir's effective control is exercised by its board of directors. It also finds the applicant in compliance with the *Direction to the CRTC (Ineligibility of non-Canadians)*.

Technical impact

24. Multiple frequencies that provide similar coverage to that proposed by the applicant are available in the Brownsburg-Chatham region. Therefore, 102.7 MHz is not the last available frequency to serve Brownsburg-Chatham.
25. In addition, there would be no negative impact on the two major surrounding markets, Montréal and Ottawa, because the frequency proposed by the applicant is not available in these markets.
26. In light of the above, the Commission finds that the use of 102.7 MHz would have a minimal impact on the availability of frequencies in Brownsburg-Chatham and the surrounding areas.

Economic impact

27. Espoir plans to collect the majority of its revenues from donations but also intends to sell air time for Bible teaching programs. In response to a request for clarification from the Commission, the applicant specified that the revenues from donations would include paid sponsorship similar to advertising.
28. In its application, Espoir also indicated that it would try to obtain advertising revenues from family-run businesses that do not currently purchase radio advertising.

29. The proposed station would serve a portion of the primary contour of CJLA-FM Lachute, a French-language commercial station owned by Cogeco Media Inc. and for which the licence was renewed in Broadcasting Decision 2020-276. That licensee did not intervene in this proceeding. The Commission considers that a new specialty Christian music service would not likely target the same listeners as CJLA-FM and, accordingly, would have a limited impact on the audience shares or advertising revenues of this station.
30. In light of the above, the Commission finds that this station would not have an undue negative impact on the incumbent stations in the market.

Programming

31. In Broadcasting Public Notice 2008-4, the Commission indicated that the Canadian broadcasting system should ensure that audiences have access to a diversity of programming, especially local, regional and national content.
32. The applicant confirmed that it would commit to broadcasting 98.5 hours of local programming as well as 40 minutes of news per broadcast week. In addition, the proposed local programming would include the presentation of local events and religious services by local speakers. The Commission considers that the programming proposed by the applicant would be of interest to the community of Brownsburg-Chatham.
33. In addition, the applicant confirmed that it is ready to devote 5% of the musical selections broadcast during each broadcast week to emerging Canadian artists. The Commission has set out a **condition of licence** to that effect in the appendix to this decision.
34. Espoir confirmed that it would adhere to the Commission's guidelines on balance and ethics set out in Public Notice 1993-78. It proposed to broadcast a local program on over a dozen world religions two times a day from Monday to Friday. The Commission is satisfied with this proposal and an expectation to that effect is set out in the appendix to this decision.

Canadian content development

35. Sections 3(1)(e) and 3(1)(s)(i) of the Act declare that each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming and that private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming. In accordance with this aspect of the broadcasting policy and pursuant to its authority in section 9(1), the Commission has imposed conditions of licence requiring programming undertakings to contribute in various ways to the creation of Canadian programming, including imposing CCD requirements.

36. The applicant proposed to make over-and-above CCD contributions totalling \$26,000, to be allocated as follows in equal annual payments over seven consecutive broadcast years:

- 20% to MUSICACTION;
- 20 % to the Gospel Music Association of Canada;
- 60 % directly to Canadian artists who meet at least two of the four MAPL system requirements.

37. The Commission considers that the applicant's proposal is appropriate. Accordingly, a **condition of licence** to that effect is set out in the appendix to this decision.

Conclusion

38. In light of all of the above, the Commission **approves** the application by Aujourd'hui l'Espoir for a broadcasting licence to operate a French-language specialty (Christian Music) FM radio programming undertaking in Brownsburg-Chatham, Quebec. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

Related documents

- *Various commercial radio stations – Licence renewals*, Broadcasting Decision CRTC 2020-276, 14 August 2020
- *Christian music FM radio station in Lachute*, Broadcasting Decision CRTC 2018-446, 3 December 2018
- *Diversity of voices – regulatory policy*, Broadcasting Public Notice CRTC 2008-4, 15 January 2008
- *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2020-335

Terms, conditions of licence, expectations and encouragement for the French-language specialty (Christian music) FM radio programming undertaking in Brownsburg-Chatham, Quebec

Terms

The licence will expire 31 August 2027.

The station will operate at 102.7 MHz (channel 274A1) with an average effective radiated power of 250 watts and an effective height of the antenna above average terrain of -17.6 metres.

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 only 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 **16 September 2022**. To request an extension, the licensee must submit a written request to the Commission at least 60 days before that date, using the form available on the Commission's website.

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, with the exception of condition of licence 7.
2. The licensee shall operate the station within the specialty format as defined in *A Review of Certain Matters Concerning Radio*, Public Notice CRTC 1995-60, 21 April 1995, and in *Revised content categories and subcategories for radio*, Broadcasting Regulatory Policy CRTC 2010-819, 5 November 2010.
3. The licensee shall devote at least 90% of all musical selections broadcast during each broadcast week to selections drawn from content subcategory 35 (Non-classic religious).
4. The licensee shall devote a minimum of 80% of its broadcast week to French-language programs.
5. The licensee shall devote a minimum of 5% of its musical selections to emerging Canadian artists.
6. Where the licensee broadcasts religious programming as defined in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993, the licensee

shall adhere to the guidelines set out in sections III.B.2.a) and IV of that public notice with respect to the provision of balance and ethics in religious programming.

7. In addition to the basic annual contribution to Canadian content development, set out in section 15 of the *Radio Regulations, 1986*, the licensee shall, upon commencement of operations, make annual contributions of \$3,715 over seven consecutive broadcast years to the promotion and development of Canadian content.

Of this amount, at least 20% per broadcast year shall be devoted to FACTOR or MUSICACTION. The remainder 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.

Expectations

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

The Commission expects the licensee to broadcast a local program on over a dozen world religions two times a day on week days.

Encouragement

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.