



Broadcasting Decision CRTC 2021-52

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References: Part 1 licence renewal application and Part 1 application posted on 5 June 2020

Ottawa, 5 February 2021

7590474 Canada Inc.
Laval, Quebec

Public record for these applications: 2019-0785-9 and 2019-0878-2

CJLV Laval – Licence renewal and licence amendment

*The Commission **renews** the broadcasting licence for the French-language commercial radio station CJLV Laval from 1 March 2021 to 31 August 2027.*

*The Commission **denies** an application by the licensee to amend CJLV's broadcasting licence in order to allow the station to devote up to 40% of its broadcast week to third-language programs.*

Licence renewal

1. The Commission has the authority, pursuant to section 9(1) of the *Broadcasting Act* (the Act), to issue and renew 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, as well as to amend those conditions on application of the licensee.
2. On 3 June 2019, the Commission issued Broadcasting Notice of Consultation 2019-194, which listed the radio stations for which the broadcasting licences would expire 31 August 2020 and therefore needed to be renewed to continue their operations. In that notice of consultation, the Commission requested that the licensees of those services submit renewal applications for their broadcasting licences.
3. In response, 7590474 Canada Inc. (7590474) filed an application to renew the broadcasting licence for the French-language commercial radio station CJLV Laval, Quebec.¹
4. Given that the station is in compliance with its regulatory requirements, the Commission finds it appropriate to renew the broadcasting licence for a full licence term of seven years.

¹ The original licence expiry date for the station was 31 August 2020. The licence was administratively renewed until 28 February 2021 as a result of Broadcasting Decision 2020-284.

Licence amendment

5. Pursuant to Section 10(1)(c) of the Act, the Commission may, in furtherance of its objects, make regulations respecting the allocation of broadcasting time for the purpose of giving effect to the broadcasting policy set out in subsection 3(1). Section 7(3) of the *Radio Regulations, 1986* (the Regulations) sets out that except as otherwise provided under a condition of its licence to devote up to 40% of a broadcast week to third-language programs, an A.M. licensee, F.M. licensee or digital radio licensee that is licensed to operate a station other than an ethnic station shall devote not more than 15% of a broadcast week to third-language programs.
6. The licensee filed an application to amend its broadcasting licence in order to allow CJLV to devote up to 40% of the broadcast week to third-language programs. Specifically, it proposed to broadcast programming in Spanish, Arabic, Greek and Mandarin.
7. The licensee indicated that the station faces formidable competition for French-language programming from large and dominant players. It added that AM radio listenership, especially in French, is on a steady decline, making it difficult to maintain viability.
8. In Broadcasting Decision 2012-147, the Commission denied an application by the licensee for the same licence amendment it is requesting in the current application. The Commission stated that while the licensee demonstrated an economic need for the proposed change, it did not provide enough evidence that approval of its application would ensure the financial viability of CJLV. In that decision, the Commission also noted that the station was not broadcasting any third-language programming, despite the regulatory provision allowing it to broadcast up to 15% of such programming.

Interventions

9. The Commission received several interventions in support of the licence amendment application. It also received four interventions in opposition from Evanov Radio Group Inc. (Evanov), 9015-2018 Québec inc. (9015-2018), Montreal Greek TV and Group CHCR Inc. (Group CHCR), to which the applicant replied.
10. The interveners who opposed the application argued that the proposed amendment would have a negative impact on the incumbent ethnic stations in the market. They added that the ethnic radio market in Montréal is already suffering. Evanov and Group CHCR indicated that the COVID-19 pandemic has exacerbated this difficult situation.

11. Evanov, the licensee of the ethnic station CFMB Montréal, argued that 7590474 has failed to establish why it requires more than the permitted 15% of third-language programming. In Evanov's view, if the Commission approves the application, the owners of CJLV and CHRN would effectively operate two ethnic radio stations in the Montréal market since CJLV has an ethnic "sister station," CHRN Montréal.² Evanov submitted that this would substantively change the balance of the ethnic radio market.
12. 9015-2018 and Montreal Greek TV stated that the licensee's proposed programming would target communities that are already well served by ethnic stations in the market.
13. In addition, Group CHCR, licensee of the ethnic station CKDG-FM Montréal, submitted that CJLV is planning to target ethnic and third-language groups that already serve as core audiences for other stations in the market, including CKDG-FM. It added that those audiences permit ethnic stations to provide service to a wide range of ethnic communities in many languages because larger audiences support the smaller audiences, in keeping with Public Notice 1999-117 (the Ethnic Broadcasting Policy).
14. Group CHCR also stated that the Commission has not generally authorized commercial radio stations to offer more than the standard threshold of 15% of ethnic programming permitted under the Regulations. It argued that the one example mentioned by the applicant, CFMS-FM Markham, demonstrates how exceptional the authorization is. Group CHCR and Montreal Greek TV both stated that the licensee cannot compare its situation to that of CFMS-FM.

Reply

15. In reply to the interventions in opposition, the licensee stated that CJLV has found a niche audience by providing content focused on the ethnic communities of Laval. It submitted that the proposed amendment is an attempt to not only save the station from closing, but also to better serve ethnic groups that have grown in size. In regard to concerns shared by some interveners on the potential saturation of the ethnic market, the licensee specified that it plans to increase in Maghrebi Arabic programming by only 4.25 hours per week and Greek programming by 3.1 hours per week. Finally, the licensee indicated that the Maghrebi community is not currently served by commercial radio.

² 7590474 Canada Inc. is controlled by Radio Humsafar Inc, which itself is controlled by its majority shareholder, Jasvir Singh Sandhu. Radio Humsafar Inc. is the licensee of CHRN Montréal.

Commission's analysis and decision

16. After examining the public record for this amendment application in light of applicable regulations and policies, the Commission considers that the issues it must address are the following:

- Has the licensee demonstrated an economic need for the proposed amendment?
- Would approval of the application result in an undue economic impact on incumbent stations?
- Would the condition of licence to broadcast up to 40% third-language programming be appropriate?

Has the licensee demonstrated an economic need for the proposed amendment?

17. The licensee stated that the proposed amendment is necessary for the financial viability of CJLV. It argued that the station's performance has been hindered by its weaker AM signal and that competition from stations in neighbouring Montréal that are able to reach audiences in Laval has caused a steady decline in revenues.
18. The licensee indicated that it has experimented with different programming formats since acquiring the station in 2011 but it has not been able to reverse the steadily declining revenues. It specified, however, that the decision to devote 15% of its weekly programming to ethnic programming in 2016 has reduced the losses and allowed the station to continue operating. In the licensee's view, approval of this application would allow it to build on this success and make use of its established expertise in multilingual radio from operating CHRN in Montréal.
19. In Broadcasting Decision 2012-147, the Commission denied an application by the licensee to amend the broadcasting licence for the station in order to devote, in each broadcast week, up to 40% of its programming to third-language programming. While the Commission acknowledged that CJLV experienced difficulties between 2006 and 2010, it considered that the licensee had not demonstrated how the proposed amendment, if approved, would make its station profitable.
20. Based on the station's financial performance from 2012 to 2019, the Commission acknowledges that, although it has devoted a portion of its weekly programming to ethnic programming since 2016, CJLV has not been profitable at any point.
21. The licensee filed projected revenues for the station should the Commission approve its licence amendment application. The Commission notes that while these projections are optimistic, the licensee has experience in third-language radio since it operates CHRN Montréal. Further, CJLV could benefit from synergies with CHRN, which could help the station reduce its expenditures. Finally, the third-language population in Laval is a rapidly growing segment of the population and, with the proposed amendment, CJLV would have an opportunity to reach a different audience.

22. In light of the above, the Commission finds that the licensee has demonstrated an economic need for the proposed amendment.

Would approval of the application result in an undue economic impact on incumbent stations?

23. There are currently eight ethnic radio stations in the Montréal market. In Broadcasting Decision 2012-147, the Commission noted that granting the right to broadcast additional ethnic content on CJLV could have a negative impact on the ethnic stations in Montréal, which already provide programming to the ethnic communities targeted by this application.
24. Since that determination, advertising and total revenues among Montréal ethnic radio stations have declined. Two additional ethnic radio stations have also been licensed to serve the Montréal market.
25. Approval of the proposed amendment would give the licensee a second multilingual presence in the Montréal market, thus giving it a competitive advantage over the other ownership groups that each operate a single station.
26. Further, the COVID-19 pandemic created an additional strain on the broadcasting industry and increased the vulnerability of the incumbent stations to undue negative impact. According to Trans-Canada Radio Advertising by Market data, advertising revenues between April and October 2020 in the Montréal market were lower than advertising revenues over the same period in 2019.
27. While it cannot confirm at this time whether ethnic stations have been more adversely impacted by the pandemic than English- or French-language stations, the Commission notes that ethnic services generally rely heavily on local advertising, and the pandemic has a greater impact on local advertising than national advertising. Consequently, granting the right to broadcast more ethnic content on CJLV would impact incumbent stations in the market.
28. In light of the above, the Commission finds that the proposed amendment would risk undue negative impact on incumbent stations in the market.

Would the condition of licence to broadcast up to 40% third-language programming be appropriate?

29. Pursuant to section 7(3) of the Regulations, a licensee that is licensed to operate a station other than an ethnic station may not devote more than 15% of a broadcast week to third-language programs unless it obtains approval for an increase up to 40% to be set out in its conditions of licence. As set out in the Ethnic Broadcasting Policy, this requirement to obtain Commission approval is to ensure that non-ethnic stations have maximum flexibility to reflect the communities they serve while providing ethnic stations with some protection in view of their obligations to serve a broad range of ethnic groups.

30. In Broadcasting Decision 2012-487, the Commission approved an application for a new commercial FM station to serve Markham, Ontario. The applicant proposed to broadcast a maximum of 36.9% of third-language programming each broadcast week and to abide by a condition of licence requiring it to provide programming directed to a minimum of five ethnic groups in a minimum of nine languages. In that decision, the Commission stated that the proposed broad format, the local nature of the station's programming and its limited coverage would likely limit any financial impact on existing ethnic and music radio stations in the market and that any impact would be spread among several stations. 7590474 referred to that decision to support its amendment application.
31. In its application, the licensee proposed to broadcast programming in only four languages other than French and did not propose a condition of licence to broadcast in a minimum number of languages. Without such a condition of licence, the licensee would have greater freedom than an ethnic station to target ethnic groups in key languages. This could impact the ethnic stations in the market that are already serving these groups and that must also serve smaller ethnic groups.
32. In light of the above, the Commission considers that there are not adequate safeguards to limit the impact of the proposed licence amendment on the incumbent ethnic stations. The Commission finds that while granting the exception would be a way to further the policy objective set out above, it should not be to the detriment of the ethnic stations currently serving the market.
33. 7590474 indicated that it currently devotes 11 hours, or 9%, of its programming to third-language programs, and 7.75 hours, or 6%, to French-language ethnic programs. The Commission reminds the licensee that there is no limit on the amount of ethnic programming in French and English that non-ethnic stations may air and that French-and English-language ethnic programs do not count toward the 15% maximum for third-language programs under the Regulations.

Conclusion

34. In light of all of the above, and consistent with the authority set out in section 9(1) of the Act, the Commission **renews** the broadcasting licence for the French-language commercial radio programming undertaking CJLV Laval from 1 March 2021 to 31 August 2027. The licensee shall adhere to the **conditions of licence** set out in Broadcasting Regulatory Policy 2009-62, as well as to the conditions set out in the broadcasting licence for the undertaking.
35. Further, the Commission **denies** the application by 7590474 Canada Inc. to amend CJLV's broadcasting licence in order to allow the station to devote up to 40% of its broadcast week to third-language programs.

Reminder

36. Pursuant to section 22 of the Act, the broadcasting licence renewed in this decision will cease to have any force or effect if the broadcasting certificate issued by the Department of Industry lapses.

Expectation

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

Encouragement

38. In accordance with Public Notice CRTC 1992-59, 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.

Secretary General

Related documents

- *Various radio programming undertakings – Administrative renewals*, Broadcasting Decision CRTC 2020-284, 21 August 2020
- *Call for licence renewal applications*, Broadcasting Notice of Consultation CRTC 2019-194, 3 June 2019
- *Licensing of new radio stations to serve Markham*, Broadcasting Decision CRTC 2012-487, 11 September 2012
- *CJLV Laval – Licence amendment*, Broadcasting Decision CRTC 2012-147, 13 March 2012
- *Conditions of licence for commercial AM and FM radio stations*, Broadcasting Regulatory Policy CRTC 2009-62, 11 February 2009
- *Ethnic broadcasting policy*, Public Notice CRTC 1999-117, 16 July 1999
- *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992

This decision is to be appended to the licence.