



Broadcasting Decision CRTC 2022-127

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Ottawa, 10 May 2022

11733630 Canada Inc.

Saint-Raymond-de-Portneuf and Saint-Augustin-de-Desmaures, Quebec

Public record: 2022-0001-0

CHOC-FM Saint-Raymond-de-Portneuf – New transmitter in Saint-Augustin-de-Desmaures

The Commission **denies** an application by 11733630 Canada Inc. to amend the broadcasting licence for the French-language commercial radio station CHOC-FM Saint-Raymond-de-Portneuf to operate a new transmitter in Saint-Augustin-de-Desmaures.

Background

1. In Broadcasting Notice of Consultation 2018-260, the Commission called for comments on market capacity and the appropriateness of issuing a call for radio applications to serve the Regional County Municipality (RCM) of Portneuf, Quebec.
2. In Broadcasting Decision 2018-455, the Commission found that it was not necessary to publish a call for applications, given that no parties other than Michel Lambert, on behalf of a corporation to be incorporated (OBCI), expressed an interest in serving this market. The Commission also found that the Portneuf RCM market could sustain a new station.
3. Then, in Broadcasting Decision 2019-355, the Commission approved an application by Michel Lambert (OBCI) for a licence to operate a French-language commercial radio station to serve the Portneuf RCM market. The Commission indicated that the proposed station would contribute to local representation and programming diversity in the market, since it would be the only station offering local programming intended exclusively for the listeners in that region.
4. In an administrative decision dated 1 November 2021, the Commission approved an application by 3924301 Canada Inc. for authority to change the ownership and effective control of 11733630 Canada Inc. (11733630).

Application

5. The Commission has the authority, pursuant to subsection 9(1) of the *Broadcasting Act* (the Act), to issue 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 subsection 3(1) of the Act, and to amend any conditions on application of the licensee.

6. 11733630 filed an application to amend the broadcasting licence for the French-language commercial radio station CHOC-FM Saint-Raymond-de-Portneuf, Quebec, to operate a new transmitter in Saint-Augustin-de-Desmaures, Quebec.
7. The new transmitter would operate at 103.7 MHz (channel 279A) with an average effective radiated power (ERP) of 221 watts (maximum ERP of 800 watts with an effective height of the antenna above average terrain of 270 metres).
8. The applicant stated that the proposed changes would enable it to consolidate its coverage and ensure the station's continuity, thus reaching all the citizens of its authorized market, the Portneuf RCM. In addition, it specified that the requested changes are not intended to expand CHOC-FM's coverage area, but rather to correct a technical gap in coverage. According to 11733630, the contours of the new rebroadcasting transmitter would be entirely within its currently licensed market.
9. The Commission received an intervention in support of this application.

Issues

10. After examining the public record for this application in light of the applicable regulations and policies, the Commission considers that it must address the following issues:
 - whether the applicant has demonstrated a compelling economic or technical need justifying the requested technical changes;
 - whether the requested technical changes represent an appropriate technical solution;
 - whether the requested technical changes represent an appropriate use of spectrum;
 - whether the approval of the requested technical changes would have an undue negative financial impact on incumbent stations; and
 - whether the approval of this application would undermine the Commission's licensing process.

Demonstration of an economic or technical need

11. When the licensee of a radio station files an application for technical changes, the Commission generally requires that the licensee present compelling technical or economic evidence justifying the requested technical changes. Applications are examined on a case-by-case basis, and the Commission may take into consideration the details of an application and any relevant issues raised in an intervention.

12. The applicant stated that the communities most affected by the CHOC-FM signal deficiencies are Neuville and Saint-Augustin-de-Desmaures, but that Pont-Rouge and Donnaconna are also affected. Saint-Augustin-de-Desmaures, where the applicant wishes to add the new transmitter, is located approximately 29 kilometres east of Saint-Raymond-de-Portneuf.
13. In support of its request for technical changes, the applicant contended that it informed the Commission of coverage problems in certain areas of its licensed service area since the station began operating. It submitted, as part of this application, a letter from the Member of Parliament for Portneuf–Jacques-Cartier indicating that some individuals had informed him of the signal deficiencies in the area. However, although the applicant claims to have informed Commission staff of the signal deficiencies prior to the filing of this application, no evidence of deficiencies was filed as part of this application, nor copies of the alleged discussions with staff.
14. In addition, the Commission notes that the realistic contours submitted by the applicant show that there may be insufficient coverage in some parts of the Portneuf RCM. However, the realistic contours after the requested changes would remain largely unchanged compared with those presented in the application for the station licence. Therefore, the gaps in coverage were likely known at the time that the licence application was filed.
15. 11733630 also cited an economic need to support this application. Specifically, it argued that without the approval of the application, it would not be able to achieve profitability and would instead increase its deficit.
16. In reviewing the evidence on the record, the Commission notes that the applicant has just entered its second year of operation and shows a good ability to manage its income and expenses. Further, it is not uncommon for stations to experience losses in the first few years of operation. Therefore, the Commission considers that it is too early to assess the financial situation of the station.
17. In light of the above, the Commission finds that 11733630 did not demonstrate a compelling economic or technical need justifying the requested technical changes.

Appropriateness of the proposed technical solution

18. To justify its request for a new transmitter in Saint-Augustin-de-Desmaures, 11733630 pointed to signal deficiencies in the area east of its authorized contours, specifying that Neuville, Saint-Augustin-de-Desmaures, Pont-Rouge and Donnaconna are particularly affected.
19. With regard to the realistic primary contours (3 mV/m), the Commission considers that they do not appear to be able to serve Pont-Rouge and Donnaconna and would likely represent a flawed solution for serving Neuville. While CHOC-FM's mandate is to serve the Portneuf RCM, the realistic primary contours of the proposed rebroadcasting transmitter appear to provide minimal additional coverage in the Portneuf RCM and no additional coverage within the authorized primary contours.

20. In light of the above, the Commission finds that the proposed rebroadcasting transmitter does not represent an appropriate technical solution to the signal deficiencies noted by the applicant in the Portneuf RCM or within the authorized primary contours.

Appropriate use of the spectrum

21. The applicant proposed to use a new frequency in Saint-Augustin-de-Desmaures, 103.7 MHz, which would eliminate its availability in the surrounding communities. The frequency would be used to implement a solution that would most likely not resolve the CHOC-FM's signal deficiencies. Moreover, using this frequency would result in a spectrum shortage in the Saint-Augustin-de-Desmaures area as well as in the city of Québec.
22. In light of the above, the Commission finds that the applicant's proposal does not represent an appropriate use of the spectrum.

Impact on incumbent stations

23. In addition to CHOC-FM, the Portneuf RCM region is served by the Canadian Broadcasting Corporation stations CBM-FM, CBVE-FM, CBV-FM and CBVX-FM, as well as by CHXX-FM Donnacona.¹ Some radio stations serving Québec are also accessible.
24. The applicant indicated that the proposed rebroadcasting transmitter is necessary to adequately cover the area it is licensed to serve. However, Saint-Augustin-de-Desmaures is not part of the Portneuf RCM, which raises concerns about 11733630's reasons for the choice of location of the rebroadcasting transmitter.
25. In addition, the proposed rebroadcasting transmitter would expand the primary contours to reach not only the residents of the Portneuf RCM, but also those of the Québec and La Jacques-Cartier RCMs, located outside the licensee's licensed market. In fact, the majority of the audience covered by the new transmitter would be in a market not authorized in the licensing application and which, as the Commission determined in Broadcasting Decision 2018-453, is in part already saturated.
26. In light of the above, the Commission finds that the addition of the proposed new transmitter would have an undue negative financial impact on incumbent stations serving markets adjacent to the Portneuf RCM since such an addition would allow CHOC-FM to enter markets that it is not licensed to serve.

Integrity of the Commission's licensing process

27. The Commission expects the technical parameters included for a proposed station to reflect the planned future operation of the station. The applicant wishes to add a

¹ CHXX-FM Donnacona must, during any broadcast week, broadcast a minimum of 14 hours of local programming produced at its Donnacona studio and intended for the Portneuf region.

rebroadcasting transmitter in Saint-Augustin-de-Desmaures to fill signal gaps in this and other communities in the Portneuf RCM. However, as noted above, Saint-Augustin-de-Desmaures is not part of the market that CHOC-FM is licensed to serve.

28. The Commission is concerned that if it were to approve this application, 11733630 would have the opportunity to reposition its service and redirect its programming and solicitation activities outside the market it is licensed to serve. This application could be seen as a backdoor attempt to gain access to the RCMs of Québec and La Jacques-Cartier, thereby circumventing the Commission's licensing process.
29. Moreover, the Commission notes that the realistic contours submitted as part of this application are very similar to those submitted in the applicant's initial application for a broadcasting licence to operate a new station. Therefore, the Commission considers that the current coverage gap areas were known at the time of filing the licensing application.
30. In light of the above, the Commission finds that approval of this application would undermine the integrity of the Commission's licensing process.

Conclusion

31. In light of all of the above, the Commission **denies** the application by 11733630 to amend the broadcasting licence for the French-language commercial radio programming undertaking CHOC-FM Saint-Raymond-de-Portneuf, Quebec, to add a rebroadcasting transmitter in Saint-Augustin-de-Desmaures.

Secretary General

Related documents

- *French-language commercial FM radio station in Saint-Raymond-de-Portneuf*, Broadcasting Decision CRTC 2019-355, 25 October 2019
- *Findings regarding market capacity and the appropriateness of issuing a call for radio applications to serve the Regional County Municipality of Portneuf*, Broadcasting Decision CRTC 2018-455, 6 December 2018
- *Findings regarding market capacity and the appropriateness of issuing a call for radio applications to serve the Québec radio market*, Broadcasting Decision CRTC 2018-453, 6 December 2018
- *Call for comments on market capacity and the appropriateness of issuing a call for radio applications to serve the Regional County Municipality of Portneuf, Quebec*, Broadcasting Notice of Consultation CRTC 2018-260, 1 August 2018