



Broadcasting Decision CRTC 2023-320

PDF version

References: 2022-331 and 2022-331-1

Ottawa, 20 September 2023

Radio Boréale

Amos and La Sarre, Quebec

Public record: 2020-0185-8

Public hearing in the National Capital Region

23 February 2023

CHOW-FM Amos – New transmitter in La Sarre

Summary

The Commission **denies** an application by Radio Boréale to operate an FM transmitter in La Sarre, Quebec, to rebroadcast the programming of the French-language community radio station CHOW-FM Amos, Quebec.

Application

1. Radio Boréale filed an application to operate a new FM transmitter in La Sarre, Quebec, to rebroadcast the programming of the French-language community radio station CHOW-FM Amos.¹
2. The new transmitter would operate at 106.1 MHz (channel 291 B1) with an average effective radiated power (ERP) of 2,706 watts (maximum ERP of 12,600 watts) and an effective height of the antenna above average terrain (EHAAT) of 53.2 metres.
3. Radio Boréale noted that the application is to address the lack of a community radio in La Sarre. The proposed amendment is also intended to improve the financial health of the undertaking, as the expansion of the station's signal coverage is expected to result in advertising revenues, and the creation of new points of service. As such, the proposed amendment could improve the undertaking's long-term viability while providing the regional and local coverage desired by listeners in the municipal populations involved.
4. Radio Boréale noted that it will continue to broadcast at least 126 hours of programming during each broadcast week, including the production of several programs dealing with subjects related to projects supported by community organizations or groups dedicated to promoting and developing communities in the areas concerned. Radio Boréale also stated

¹ Radio Boréale also filed an application (2020-0187-4) to operate an FM transmitter in Rouyn-Noranda, Quebec, to rebroadcast CHOW-FM's programming.

its intention to install a mobile studio and hire a part-time host to cover news from the La Sarre region.

5. The Commission did not receive any interventions in regard to this application.

Regulatory framework

6. Pursuant to section 5 of the *Broadcasting Act* (the Act), the Commission is required to regulate and supervise all aspects of the Canadian broadcasting system with a view of implementing the broadcasting policy set out in subsection 3(1) and having regard to the regulatory policy set out in subsection 5(2).
7. The Commission has the authority, pursuant to subsection 9(1) of the Act, to issue licences for the carrying on of broadcasting undertakings, as well as to amend those licences.
8. When a radio licensee files an application for a technical change, including the addition of a rebroadcasting transmitter, the Commission expects the licensee to present compelling technical or economic evidence justifying the proposed technical changes.

Issues

9. After examining the record for this application in light of applicable regulations and policies the Commission considers that the issues to be addressed are as follows:
 - whether the licensee has demonstrated a compelling economic or technical need for the requested technical changes;
 - whether the proposed transmitter is an appropriate technical solution;
 - whether the requested technical changes are an appropriate use of spectrum; and
 - whether approval of the application would undermine the integrity of the Commission's licensing process.

Demonstration of an economic or technical need

10. According to Radio Boréale, the proposed rebroadcasting transmitter would enable it to cover a larger part of the regional community, including La Sarre and its surrounding municipalities. La Sarre is, however, outside CHOW-FM's authorized market, as defined by its 3mV/m contour, and the licensee has not stated or demonstrated any deficiency in the station's signal to justify its application. Instead, it filed a technical change application to add a rebroadcasting transmitter to serve a separate market located 80 kilometres from the one it is licensed to serve, in this case Amos.
11. In its application, Radio Boréale stated that the proposed transmitter is necessary for the continued growth of CHOW-FM, but it did not allege that this application is necessary for the station's short- or long-term viability. Furthermore, the financial projections submitted

with the application show that Radio Boréale expects the station to be profitable for at least the next three years, whether or not the application is approved.

12. In light of the above, the Commission finds that Radio Boréale has not demonstrated compelling technical or economic need justifying the requested technical changes.

Appropriate technical solution

13. Radio Boréale is requesting the addition of a rebroadcasting transmitter in La Sarre, about 80 km northwest of the original CHOW-FM station, currently licensed to serve the market of Amos. In its application, Radio Boréale noted that it wished to extend service to La Sarre and surrounding areas outside the primary and secondary contours of the existing transmitter.
14. The Commission notes that Radio Boréale did not file this application because of technical deficiencies within its authorized contours, but rather to provide a new service to a neighbouring community. The Commission considers that the addition of a rebroadcasting transmitter is generally an effective solution for improving coverage in a given service area, and that any amendment should be aimed at providing adequate service to the community served.
15. Although the application is not intended to resolve a technical deficiency, the Commission considers that the addition of the proposed transmitter would represent an appropriate technical solution for providing service to La Sarre and surrounding areas.

Appropriate use of spectrum

16. Radio Boréale is proposing the use of a new frequency, 106.1 MHz, in La Sarre, which would make this frequency unavailable in the surrounding communities. However, other frequencies are available and could be used to provide service to La Sarre and surrounding areas. Moreover, none of the major surrounding markets would be affected.
17. In light of the above, the Commission finds that Radio Boréale's proposal represents an appropriate use of the spectrum.

Integrity of the Commission's licensing process

18. When a licensee of a radio station files an application for technical amendments, the licensee is generally expected to present evidence of a compelling technical or economic need justifying the technical changes.
19. However, the Commission has, as an exception to this general approach, approved applications that do not demonstrate a compelling technical or economic need when the particular circumstances of the licensee warrant, including where the applicant seeks to serve additional communities, when it is in the public interest to do so. Such applications are evaluated on a case-by-case basis and take into account the unique factors of each station's market.

20. Radio Boréale clearly stated in its application that its primary objective is to consolidate its strategic and financial position. The addition of a rebroadcasting transmitter in La Sarre would enable it to fulfil its community mission more effectively, by stimulating and contributing more to coverage of the socio-economic and cultural activities of a larger part of the regional community it serves. Radio Boréale added that it intends to further establish its presence in the La Sarre market by setting up a mobile studio. It added that it intends to hire a part-time host to cover regional news, and to welcome various local and regional stakeholders on a regular basis, offering them concrete and lasting collaboration.
21. Radio Boréale also stated that it intends to respond to a desire often expressed by representatives of the target population, who have long been waiting for the arrival of a community radio station that would deal with subjects specific to their community, particularly in the areas of culture, sports and socio-economics. However, the Commission notes that Radio Boréale has not provided any evidence to demonstrate this interest, and that no intervention in support of the application has been filed.
22. In *Community radio station in Amos, Quebec*, Broadcasting Decision CRTC 2007-418, 7 December 2007, the Commission approved the community station CHOW-FM to serve the market of Amos, located in the RCM of Abitibi. However, the La Sarre market is part of the RCM of Abitibi West, more than an hour's drive from Amos. The Commission reiterates that a transmitter is used to broadcast programming from the originating station and should not be used to broadcast unique programming for a market outside the licensed service area.
23. The Commission is concerned that the current technical amendment process is increasingly being used by licensees to extend their service beyond the licensed market without submitting evidence to justify the technical changes, or without submitting an application for a new service and the market capacity analysis that such an application could trigger. The number of exceptions to its general approach has grown and the Commission is concerned that this type of backdoor entry into markets could undermine the integrity of the licensing process. The Commission understands that community stations in particular may have concerns about the resources required to submit an application for a new service, but the Commission also believes that technical amendments should not become a default way to access new markets.
24. Granting an exception to a licensee to serve a new market by adding a rebroadcasting transmitter through a technical amendment application rather than filing an application for a new station could be to the detriment of the community to be served. This community could lose out on an opportunity to be better served in terms of local programming and news, diversity, promotion of local talent and direct community involvement, which would not necessarily be achieved by retransmitting programming from the existing station's licensed market. For these reasons, the Commission considers that the applicant should have applied for a new licence to serve the La Sarre market by indicating, for example, that the new station could also benefit from programming synergies with the Amos station.
25. In light of the above, the Commission finds that approval of this application would undermine the integrity of the licensing process.

Conclusion

26. In light of all of the above, the Commission **denies** the application by Radio Boréale to operate an FM transmitter in La Sarre, Quebec, to rebroadcast the programming of the French-language community radio station CHOW-FM Amos.

Secretary General