



Broadcasting Decision CRTC 2024-136

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Reference: 2023-369

Ottawa, 20 June 2024

Comité de la radio communautaire Huronne-Wyandot inc.
Wendake, Quebec

Public record: 2023-0522-6

Indigenous FM radio station in Wendake

Summary

Comité de la radio communautaire Huronne-Wyandot inc. (Radio Huronne-Wyandot) filed an application on 23 August 2023 for a broadcasting licence to operate an Indigenous (Type B) FM radio station in Wendake, Quebec.

Radio Huronne-Wyandot was granted a first broadcasting licence for a low-power station in 1984. It was then granted a new licence for an Indigenous FM radio station (CIHW-FM) in Wendake in 2018. This licence was administratively renewed in 2019 and expired on 31 August 2022.

Due to various factors, Radio Huronne-Wyandot's broadcasting licence was not renewed in 2022.

In the Commission's view, Radio Huronne-Wyandot is an important source of information for the community, and granting this licence will allow the applicant to continue operating the station.

For this reason, the Commission approves the application filed by Radio Huronne-Wyandot for a broadcasting licence to operate an Indigenous (Type B) FM radio station in Wendake.

Application

1. Comité de la radio communautaire Huronne-Wyandot inc. (Radio Huronne-Wyandot) filed an application on 23 August 2023 for a broadcasting licence to operate an Indigenous (Type B Native)¹ FM radio station in Wendake, Quebec.

¹ Type B Native stations, as defined in Public Notice 1990-89, are referred to as Indigenous stations in this decision.

2. Radio Huronne-Wyandot is a not-for-profit corporation incorporated under the *Companies Act* in the Province of Quebec and is controlled by its board of directors.
3. The station would operate at 100.3 MHz (channel 262A) with an average effective radiated power (ERP) of 239 watts (maximum ERP of 400 watts) and an effective height of the antenna above average terrain (EHAAT) of 18.9 metres.
4. Radio Huronne-Wyandot proposed to broadcast 126 hours of local programming each broadcast week, including:
 - 6 hours of programming devoted to spoken word programs and 120 hours of programming devoted to musical content; and
 - 102 hours of programming in the French language and 24 hours of programming in various Indigenous languages (specifically, Wendat, Innu and Atikamekw).
5. The Commission did not receive any interventions in regard to this application.

Background

6. In Decision 84-463, Radio Huronne-Wyandot was granted a broadcasting licence to operate a low-power Indigenous community FM radio station in Village-des-Hurons, Quebec. The station launched as CIHW-FM Village-des-Hurons.
7. In Broadcasting Decision 2018-19, to operate CIHW-FM as a full-power station rather than a low-power station, Radio Huronne-Wyandot was granted a new broadcasting licence to operate a full-power Indigenous FM radio station in Wendake.
8. In Broadcasting Decision 2019-112, the broadcasting licence for CIHW-FM was administratively renewed. The licence expired on 31 August 2022 and has not been the subject of a renewal application to extend the licence period and continue operating the station.
9. Despite the expiration of the broadcasting licence issued by the Commission, the Department of Industry (also known as Innovation, Science and Economic Development Canada, and hereafter referred to as the Department) issued a broadcasting certificate for the station on 7 February 2020. This certificate expires on 31 August 2027.
10. Having become aware of the situation in July 2023, Commission staff promptly informed Radio Huronne-Wyandot that the licence had expired more than a year earlier, and indicated that to normalize the situation, it needed to apply for a new broadcasting licence to continue operating the station.

Regulatory framework

11. The Commission has the authority, pursuant to subsections 9(1) and 9.1(1) of the *Broadcasting Act*, to issue and renew licences, and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the Canadian broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*.

Issues

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

- whether the applicant's ownership structure satisfies the requirements of the Commission's policy regarding Indigenous stations set out in Public Notice 1990-89 (Native Broadcasting Policy) and the requirements of the *Direction to the CRTC (Ineligibility of Non-Canadians)* (the Direction);
- whether the use of the proposed frequency represents an appropriate use of spectrum;
- whether approval of this application would have an undue economic impact on incumbent stations; and
- whether the programming proposed by the applicant satisfies the provisions set out in the Native Broadcasting Policy as well as the relevant policy objectives of the *Broadcasting Act*.

Ownership structure

13. According to the Native Broadcasting Policy, an Indigenous undertaking is owned and controlled by a not-for-profit organization whose structure provides for board membership by the Indigenous population of the region served.

14. Further, the Direction requires people or organizations seeking a broadcasting licence to be Canadian.

15. Radio Huronne-Wyandot is a not-for-profit organization controlled by its board of directors. In its application, Radio Huronne-Wyandot indicated that all members of the board of directors are members of the Huron-Wendat Nation holding elected office positions, or administrative staff within the Huron-Wendat Nation Council.

16. On 31 August 2016, Radio Huronne-Wyandot adopted its by-laws, which establish the composition of its board of directors. Under section 6.1 of the by-laws, and in accordance with the organization's letters patent, the board of directors must be "composed of five (5) members, namely, the Grand Chief of the Huron-Wendat Nation, the Vice Grand Chief of the Huron-Wendat Nation and three (3) directors appointed by the Huron-Wendat Nation Council." [Translation] The Commission also notes that the president and all board members of Radio Huronne-Wyandot are residents of Quebec.

17. No material aspects of Radio Huronne-Wyandot's corporate structure or the requirements for the composition of its board of directors have changed since the licence for CIHW-FM was originally issued in 2018 (see Broadcasting Decision 2018-19).
18. In light of the above, the Commission finds that Radio Huronne-Wyandot is in compliance with the Native Broadcasting Policy and with the Direction and, as such, is eligible to hold a broadcasting licence.

Appropriate use of spectrum

19. The Department has granted conditional technical acceptability of the proposed station. As such, the applicant's proposal adheres to the rules governing FM spectrum coordination.
20. The use of the proposed frequency would eliminate its availability in the surrounding areas, including Québec. However, there are other frequencies available that could serve those areas. As such, the frequency 100.3 MHz is not the last available frequency to serve Wendake. The use of this frequency by the applicant would therefore have a negligible impact on the availability of frequencies in Wendake.
21. Further, since the applicant continues to operate CIHW-FM at 100.3 MHz pursuant to the broadcasting certificate issued by the Department, approval of this application would not have an impact on the frequency spectrum.
22. In light of the above, the Commission finds that the use of the frequency 100.3 MHz by the applicant for the proposed radio station would represent an appropriate use of spectrum.

Economic impact on incumbent stations

23. Wendake is the current name of two urban reserves, Wendake 7 and Wendake 7A, of the Huron-Wendat Nation of Quebec. The proposed station would serve the populations both inside and outside these reserves.
24. The Québec radio market is currently served by nine commercial radio stations. Radio Huronne-Wyandot would continue to operate the only Indigenous radio service in this market (CIHW-FM).
25. Although its total revenues have not returned to pre-pandemic levels, Québec's commercial market maintained a profit before interest and taxes (PBIT) margin of 21.4% and 15.7% in 2021 and 2022, respectively.
26. In light of the above and given the nature of the proposed service, the Commission finds that the approval of this application would not have an undue economic impact on incumbent stations.

Requirements and provisions relating to Indigenous radio stations

27. The broadcasting policy set out in subsection 3(1) of the *Broadcasting Act* places a particular focus on Indigenous programming and Indigenous languages. In particular:

- subparagraph 3(1)(d)(iii) states that the Canadian broadcasting system should, through its programming and the employment opportunities arising out of its operations, serve the needs and interests of all Canadians [...] and reflect their circumstances and aspirations, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous peoples and languages within that society;
- subparagraph 3(1)(d)(iii.1) states that the Canadian broadcasting system should provide opportunities to Indigenous persons to produce programming in Indigenous languages, English or French, or in any combination of them, and to carry on broadcasting undertakings;
- subparagraph 3(1)(i)(ii.2) states that the programming provided by the Canadian broadcasting system should reflect the importance of Indigenous language revitalization by supporting the production and broadcasting of Indigenous language programming [...]; and
- paragraph 3(1)(o) states that programming that reflects the Indigenous cultures of Canada and programming that is in Indigenous languages should be provided — including through broadcasting undertakings that are carried on by Indigenous persons — within community elements [...] and other elements of the Canadian broadcasting system in order to serve Indigenous peoples where they live.

28. Pursuant to subsection 5(2) of the *Broadcasting Act*, the Canadian broadcasting system should be regulated and supervised in a flexible manner that

- takes into account the different characteristics of English, French and Indigenous language broadcasting and the different conditions under which broadcasting undertakings that provide English, French or Indigenous language programming operate, and the specific needs and interests of Indigenous peoples (paragraph 5(2)(a)); and
- facilitates the provision to Canadians of Canadian programs created and produced in both official languages, as well as in Indigenous languages (paragraph 5(2)(e)).

29. In accordance with the Native Broadcasting Policy, the programming of Indigenous radio stations should be oriented to the interests and needs specific to the Indigenous audiences they are licensed to serve. Those stations have a distinct role in addressing the specific cultural and linguistic needs of their audiences and in creating an environment in which Indigenous musicians and spoken word artists can flourish.

30. Radio Huronne-Wyandot proposed to broadcast 126 hours of local programming each broadcast week, of which 6 hours would be devoted to spoken word programs and 120 hours to musical content.
31. Spoken word programming would include talk shows, educational programs and the live broadcast of bingo games in Wendake.
32. The proposed 120 hours of musical content would include pop, rock and dance music, and country and Indigenous music.
33. Radio Huronne-Wyandot proposed to devote approximately 20% of musical selections to selections performed or composed by Indigenous creators. It also proposed to promote the development of Indigenous talent through programs devoted entirely to works created by First Nations artists. It would also broadcast special programs, such as Indigenous concerts and events in Wendake, as well as two songs by Indigenous artists each hour of the broadcast day.
34. Radio Huronne-Wyandot stated that the radio station's programming would continue to showcase Indigenous arts and culture. It would be regularly updated to meet community needs and to enhance the listener experience.
35. Radio Huronne-Wyandot also stated that, each broadcast week, there would be 102 hours of programs in the French language and 24 hours of programs in various Indigenous languages (specifically, Wendat, Innu and Atikamekw).
36. In its 2016 application that led to the issuance of Broadcasting Decision 2018-19, Radio Huronne-Wyandot stated that CIHW-FM was the only Indigenous station in the Québec region. It added that the Wendat territory is home to one of Quebec's 54 Indigenous communities, one of the four communities of the Iroquoian family, and the only Wendat community. The applicant also indicated that CIHW-FM's mission has been to serve the Indigenous population and to make their culture and traditions better known to non-Indigenous peoples.
37. In light of the above, the Commission finds that this application is consistent with the provisions relating to Indigenous radio stations set out in the Native Broadcasting Policy as well as with the policy objectives set out in the *Broadcasting Act*.
38. In addition, the Commission notes that the commitment to broadcast programs in diverse traditional Indigenous languages of the region would promote the preservation of Indigenous languages and cultures, consistent with the objectives of the *Broadcasting Act*. It would also be consistent with the Government of Canada's commitment (as set out, for example, in the *Indigenous Languages Act*) to support the reclaiming, revitalization, maintenance and strengthening of Indigenous languages.

Conclusion

39. In light of all of the above, the Commission approves the application by Radio Huronne-Wyandot for a broadcasting licence to operate an Indigenous (Type B Native) FM radio programming undertaking in Wendake, Quebec.

Conditions of service

40. There are standard conditions of service that apply to all undertakings of a particular class. In this case, the Commission considers it appropriate that the licensee should adhere to the conditions of service for Indigenous radio stations regarding the level of musical selections from content category 2 (Popular Music) and compliance with certain codes, as set out in Public Notice 2001-70.

41. Further, pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*. The Commission considers it appropriate to require the licensee to also adhere to these as a condition of service.

42. Finally, the Commission has implemented obligations in respect of the broadcast of emergency alerts. For reference, see section 16 of the *Radio Regulations, 1986* (the Regulations) as well as Broadcasting Regulatory Policy 2014-444. Compliance involves implementing the public alerting system for each of the licensee's transmitters, and ensuring that any alert broadcast decoders (e.g., ENDEC) used for the purposes of broadcasting emergency alert messages be installed and programmed to properly account for the applicable contour (as set out in paragraph 16(2)(b) of the Regulations) of the station as well as that of any rebroadcasting transmitter that may appear on the licence for that station.

43. Accordingly, pursuant to subsection 9.1(1) of the *Broadcasting Act*, the Commission **orders** Comité de la radio communautaire Huronne-Wyandot inc., by **conditions of service** (details of which are set out in the appendix), to:

- adhere to all applicable requirements set out in the Regulations, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*;
- devote, in each broadcast week, at least 35% of musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety;
- adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code* and to the *Broadcast Code for Advertising to Children* if the licensee originates 42 hours or more of original programming in any broadcast week; and

- implement the National Public Alerting System (NPAS) **by the date of the station's launch** and make the appropriate associated information filings.
44. Given that interested parties had an opportunity to comment on the issues as part of the application process, the Commission considers this proceeding sufficient to achieve the purposes of the publication and consultation requirement set out in subsection 9.1(4) of the new *Broadcasting Act* in this case.
45. The terms of the licence, the conditions of service and the encouragement applicable to the licensee are set out in the appendix of this decision.
46. The Commission notes that the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. The licensee shall also adhere to any such requirements set out in the broadcasting licence for the undertaking.

Reminder

47. The licensee must comply at all times with the requirements set out in the *Broadcasting Act*, the Regulations, its licence and its conditions of service.

Secretary General

Related documents

- *Various Indigenous radio programming undertakings – Administrative renewals of licences expiring 31 August 2019, 2020 and 2021*, Broadcasting Decision CRTC 2019-112, 24 April 2019
- *Type B Native FM radio station in Wendake*, Broadcasting Decision CRTC 2018-19, 17 January 2018
- *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014
- *Changes to conditions of licence for certain native radio undertakings*, Public Notice CRTC 2001-70, 15 June 2001
- *Native Broadcasting Policy*, Public Notice CRTC 1990-89, 20 September 1990
- Decision CRTC 84-463, 31 May 1984

This decision is to be appended to the licence.

Appendix to Broadcasting Decision CRTC 2024-136

Terms, conditions of service and encouragement for the Indigenous (Type B Native) FM radio programming undertaking in Wendake, Quebec

Terms

The licence will expire 31 August 2030.

The station will operate at 100.3 MHz (channel 262A) with an average effective radiated power (ERP) of 239 watts (maximum ERP of 400 watts) and an effective height of the antenna above average terrain (EHAAT) of 18.9 metres.

Pursuant to subsection 22(1) of the *Broadcasting Act*, no licence may be issued until the Department of Industry (also known as Innovation, Science and Economic Development Canada) notifies the Commission that its technical requirements have been met and that a broadcasting certificate will be issued.

Furthermore, the Commission will only issue a licence for this undertaking once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be in operation by no later than **20 June 2026**, unless a request for an extension of time is approved by the Commission before that date. To request an extension, the applicant 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 service

1. The licensee shall adhere to all applicable requirements set out in the *Radio Regulations, 1986*, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.
2. In each broadcast week, the licensee shall devote at least 35% of its musical selections from content category 2 (Popular Music) to Canadian selections broadcast in their entirety.

For the purposes of this condition of service, the terms "broadcast week," "Canadian selection," "content category" and "musical selection" shall have the same meanings as those set out in the *Radio Regulations, 1986*. A musical selection by an Indigenous creator who resides in Canada is considered a Canadian selection.

3. If the licensee originates 42 hours or more of original programming in any broadcast week, the licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission, and to the *Broadcast Code for Advertising to Children*, as amended from time to time and approved by the Commission.

4. The licensee shall implement the National Public Alerting System (NPAS) by no later than **the station's launch date** in order to comply with the requirements set out in subsections 16(2) and 16(3) of the *Radio Regulations, 1986*, and in *Amendments to various regulations, the standard conditions of licence for video-on-demand undertakings and certain exemption orders – Provisions requiring the mandatory distribution of emergency alert messages*, Broadcasting Regulatory Policy CRTC 2014-444 and Broadcasting Orders CRTC 2014-445, 2014-446, 2014-447 and 2014-448, 29 August 2014.

As part of this requirement, the licensee must file a letter with the Commission to attest to the implementation date of its NPAS within **14 days after the installation**. This letter must contain evidence that the system is properly configured to receive and distribute alerts from the National Alert Aggregation and Dissemination (NAAD) System (e.g., an attestation by a Chief Executive Officer (CEO), president or person exercising a similar supervisory role in the licensee's operations, as to the installation of a functioning alerting equipment).

Encouragement

The Commission encourages the licensee to use the programming of another Indigenous station or network when it intends to broadcast wrap-around programming.