



## Broadcasting Decision CRTC 2008-224

Ottawa, 26 August 2008

### **Guy Simard, on behalf of a corporation to be incorporated**

Montmagny and Saint-Fabien-de-Panet, Quebec

*Application 2007-1520-4, received 29 October 2007*

*Public Hearing in the National Capital Region*

*13 May 2008*

### **French-language FM radio station in Montmagny and transmitter in Saint-Fabien-de-Panet**

*The Commission **approves** the application by Guy Simard, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a French-language commercial FM radio station in Montmagny and a transmitter in Saint-Fabien-de-Panet, Quebec.*

#### **The application**

1. The Commission received an application by Guy Simard, on behalf of a corporation to be incorporated (Guy Simard), for a broadcasting licence to operate a French-language FM commercial radio programming undertaking in Montmagny and a transmitter in Saint-Fabien-de-Panet, Quebec.
2. The new station would operate at 90.3 MHz (channel 212B) with an average effective radiated power of 17,460 watts.
3. The transmitter would operate at 92.5 MHz (channel 223B) with an average effective radiated power of 12,600 watts.
4. The proposed station would offer an adult pop music format. During each broadcast week, 42 hours would be devoted to local programming, of which 14 hours and 19 minutes would consist of spoken word programming, 3 hours and 10 minutes of local and regional news and 3 hours and 45 minutes of national news. To complete the broadcast week, 84 hours of programming would come from CHOX-FM La Pocatière.

#### **Canadian content development**

5. The Commission reminds the applicant that, as of 1 September 2008, it will be required to adhere to the requirements relating to contributions to Canadian content development (CCD) set out in section 15 of the *Radio Regulations, 1986*, as amended by *Regulations Amending the Radio Regulations, 1986, SOR/2008-177, 28 May 2008*, announced in Broadcasting Public Notice 2008-67.

6. Guy Simard further committed to devote, over and above the required basic annual contribution to CCD, \$1,000 per year, or \$7,000 over seven consecutive broadcast years, to CCD upon the commencement of operations. Guy Simard proposed to direct \$200 per year of this amount to MUSICACTION. The remaining \$800 would be directed to the Montmagny School of Music and the Montmagny Accordion Festival.
7. The applicant would also offer internships to journalism and program hosting students at the Centre d'études Collégiales de Montmagny.

### **Interventions**

8. The Commission received several interventions in support of this application from the City of Montmagny and several small municipalities in the Montmagny RCM that the proposed station would serve. Representatives of the Chambre de Commerce et Industrie de Montmagny also supported the application.
9. Member of Parliament Paul Crête submitted a comment in support of the proposed station, which would offer the Montmagny area a tool for regional development as well as local programming reflecting the community.
10. The Commission also received three interventions opposing the application from La Radio touristique de Québec inc. (Radio touristique de Québec), 591991 B.C. Ltd., a wholly owned subsidiary of Corus Entertainment Inc. (Corus Quebec), and Evanov Communications Inc. (Evanov). All the interventions are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

### **Radio touristique de Québec**

11. Although it did not object to the application by Guy Simard, Radio touristique de Québec, licensee of the French-language low-power FM radio programming undertaking CKJF-FM Québec, opposed the applicant's proposed use of 90.3 MHz – the frequency on which it currently operates. The application by Guy Simard is also technically mutually exclusive with an application by Radio touristique de Québec to amend the licence of CKJF-FM Québec to change its authorized contours by increasing the effective radiated power and decreasing the antenna height (application 2007-1774-6).<sup>1</sup>
12. In the licensee's view, the launch of a station on this frequency could not only cause interference with the tourist station's signal but also oblige the licensee to find another frequency, which would represent a considerable loss for the station in terms of visibility and investments. Because the station supports the lucrative tourism industry in Québec and the surrounding area and broadcasts all-local programming to a very large audience, the licensee argued that it uses frequency 90.3 MHz in a more optimal manner than would Guy Simard. It suggested that the applicant use other frequencies available in Montmagny, such as 94.7 MHz and 105.3 MHz.

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<sup>1</sup> See *CKJF-FM and CJNG-FM Québec – Technical changes*, Broadcasting Decision CRTC 2008-225, 26 August 2008

### **Corus Quebec**

13. Corus Quebec, licensee of CFEL-FM Montmagny, maintained that the economic climate in the Montmagny market is not sufficiently favourable to support a new radio station. It argued that CFEL-FM would serve the Montmagny area better if the Commission approved its own application to amend the broadcasting licence of CFEL-FM to operate an FM transmitter in Montmagny to rebroadcast its programming and improve the station's coverage. Corus Quebec requested that the Commission consider the application by Guy Simard in a future proceeding focussing on the Québec market.

### **Evanov**

14. Evanov stated that the frequency spectrum available for the Québec market is very limited. It submitted that only frequencies 90.3 MHz and 106.9 MHz could support a commercial radio station serving the general public. Evanov proposed that the Montmagny station use a frequency that cannot serve Quebec, such as 94.7 MHz or 105.3 MHz.
15. Like Corus Quebec, Evanov requested that the Commission withdraw the application by Guy Simard from the proceeding announced in Notice of Public Hearing 2008-1-5 and consider it in a subsequent public proceeding because, in Evanov's view, it would be in the public interest to issue a call for applications for broadcasting licences to operate the last available frequencies in the Québec market. In the alternative, Evanov requested that either that the application by Guy Simard be denied because it would not represent an optimal use of the frequency or that the application be approved in part so that the applicant could file an application for a new frequency that is not one of those available in Quebec.

### **Applicant's reply**

16. With regard to the economic condition of Montmagny, Guy Simard submitted that the Montmagny market could support a new local radio station and that its experience with small markets as well as its business plan would enable it to launch a profitable station.
17. At the public hearing, the applicant stated that it was willing to conclude an agreement with Radio touristique de Québec on the use of a different frequency if the Commission deemed it necessary.

### **Commission's analysis and determinations**

18. The Commission notes that since the hearing, Corus Quebec has withdrawn its application, as indicated in Broadcasting Notice of Public Hearing 2008-1-7.

19. The Commission has assessed this application by taking into account the following three factors: the limited availability of frequencies in the Québec radio market, the Montmagny market's proximity to the Québec market and the technical impact that the use of a frequency in one market can have on its use in another market. The Commission notes that the frequency proposed by the applicant – 90.3 MHz (channel 212B) – is an allotment reserved for the Montmagny market and that using it in the Québec market at a higher power level would not be optimal. The frequency would effectively be third adjacent to two stations, thereby increasing the chance of signal interference. Furthermore, the Commission considers that the alternate frequencies proposed during the hearing and in the interventions of the interested parties do not, on a *prima facie* basis, offer equivalent coverage to that of the frequency proposed by the applicant.
20. Given that the applicant stated that it would be willing to cooperate with Radio touristique de Québec, which currently operates its French-language low-power radio station CKJF-FM Québec on frequency 90.3 MHz, to help it obtain a new frequency, the Commission encourages the applicant to do everything in its power to assist Radio touristique de Québec in continuing to offer its service.
21. Furthermore, the Commission notes that in Broadcasting Decision 2006-350, it approved an application to change the authorized contours of CFEL-FM Montmagny. These changes, which enable the station to extend its service area to Lévis and surrounding areas, should also increase its audience and advertising revenue, which will no doubt have a positive impact on its financial health. Given that CFEL-FM is firmly established in the Montmagny market and currently has an extended service area, the Commission considers that the arrival of Guy Simard's station would have only a limited impact.
22. The Commission also considers that the Guy Simard station should repatriate a portion of radio listening now captured by Québec stations since the Simard station would reflect the situation and needs of the Montmagny community, which has given its support to the station.
23. In light of the above, the Commission **approves** the application by Guy Simard, on behalf of a corporation to be incorporated, for a broadcasting licence to operate a French-language commercial FM radio programming undertaking in Montmagny and a transmitter in Saint-Fabien-de-Panet. The terms and **conditions of licence** are set out in the appendix to this decision.

Secretary General

#### **Related documents**

- *CKJF-FM and CJNG-FM Québec – Technical changes*, Broadcasting Decision CRTC 2008-225, 26 August 2008
- *Amendments to the Radio Regulations, 1986 – Implementation of the Commercial Radio Policy 2006 and the Digital Radio Policy – Regulatory policy*, Broadcasting Public Notice CRTC 2008-67, 23 July 2008

- *Notice of consultation and hearing*, Broadcasting Notice of Public Hearing CRTC 2008-1-7, 19 June 2008
- *Notice of consultation and hearing*, Broadcasting Notice of Public Hearing CRTC 2008-1-5, 2 May 2008
- *Commercial Radio Policy 2006*, Broadcasting Public Notice CRTC 2006-158, 15 December 2006
- *CFEL-FM Montmagny – Technical change*, Broadcasting Decision CRTC 2006-350, 10 August 2006

*This decision is to be appended to the licence. It is available in alternative format upon request and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>.*

# Appendix to Broadcasting Decision CRTC 2008-224

## Terms, conditions of licence and encouragement

### Terms

#### **Issuance of the broadcasting licence to operate a French-language commercial FM radio service in Montmagny and a transmitter in Saint-Fabien-de-Panet, Quebec**

The licence term will begin 1 September 2008 and will expire 31 August 2015.

The new station will operate at 90.3 MHz (channel 212B) with an average effective radiated power of 17,460 watts.

The transmitter will operate at 92.5 MHz (channel 223B) with an average effective radiated power of 12,600 watts.

The Department of Industry (the Department) has advised the Commission that while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.

The Commission reminds the applicant that pursuant to section 22(1) of the *Broadcasting Act*, no licence may be issued until the Department 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 once the applicant has:

- demonstrated to the Commission, with supporting documentation, that an eligible Canadian corporation has been incorporated in accordance with the application in all material respects; and
- 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 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 26 August 2010. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before this date.

### Conditions of licence

1. The licence is subject to the conditions set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999, with the exception of conditions n<sup>os</sup>. 1 and 5.

2. In addition to its basic annual contribution to Canadian content development (CCD) as set out in section 15 of the *Radio Regulations, 1986*, as amended by the *Regulations Amending the Radio Regulations, 1986*, SOR/2008-177, 28 May 2008, announced in *Amendments to the Radio Regulations, 1986 – Implementation of the Commercial Radio Policy 2006 and the Digital Radio Policy – Regulatory Policy*, Broadcasting Public Notice 2008-67, 23 July 2008, the licensee shall, from the commencement of operations, make an annual contribution of \$1,000 (\$7,000 over seven consecutive broadcast years) to the promotion and development of Canadian content.

Of this amount, the licensee shall allocate no more than 20% per broadcast year to FACTOR or MUSICACTION. The remaining amounts of this additional CCD contribution 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.

3. The licensee shall adhere to the Canadian Association of Broadcasters' *Equitable Portrayal Code*, as amended from time to time and approved by the Commission. However, the application of the foregoing condition of licence will be suspended if the licensee is a member in good standing of the Canadian Broadcast Standards Council.

## **Encouragement**

### **Employment equity**

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.