



Broadcasting Decision CRTC 2003-399

Ottawa, 14 August 2003

Radio Chalom

Montréal, Quebec

Application 2002-0246-6

Public Hearing in Montréal, Quebec

3 February 2003

Commercial AM (ethnic and religious radio) station in Montréal

*The Commission hereby **denies** the application by Radio Chalom for a broadcasting licence to carry on a commercial AM (ethnic and religious radio) station in Montréal at 1650 kHz. The proposed station was primarily to serve Montréal's Jewish community, and would have replaced the service that the applicant currently provides through the subsidiary communications multiplex operation (SCMO) facilities of CIRA-FM Montréal.*

In light of the information provided by the applicant in its application and of the discussion at the hearing on the conformity of the Radio Chalom application to the Ethnic Broadcasting Policy (Public Notice CRTC 1999-117, 16 July 1999) and the Religious Broadcasting Policy (Public Notice CRTC 1993-78, 3 June 1993), the Commission considers that it is important to clarify certain aspects of these policies.

Introduction

1. The Commission received an application from Radio Chalom to operate a commercial AM (ethnic and religious radio) station in Montréal at 1650 kHz, with a transmitter power of 1000 watts, day and night.
2. The Commission heard this application at a public hearing in Montréal beginning on 3 February 2003. At the hearing, the Commission examined eleven other applications related to the Montréal market. Five of the applications have since been approved by the Commission for licences to carry on a French-language commercial Specialty FM radio station, a French-language commercial AM radio station, a commercial FM (ethnic radio) station and a Native FM radio station, and for an amendment to the licence of CBME-FM to add a new transmitter (Broadcasting Decisions CRTC 2003-192 to 2003-196, 2 July 2003).

The applicant

3. Radio Chalom is a not-for-profit corporation controlled by its Board of Directors, whose members are drawn from Montréal's Jewish community. As approved in *New SCMO service to broadcast the programming of Radio Chalom*, Decision CRTC 99-82, 9 April 1999, Radio Chalom currently broadcasts religious programming in French, English and Hebrew via the subsidiary communications multiplex operation (SCMO) facilities of CIRA-FM Montréal, the religious station operated by Radio Ville-Marie. The applicant's proposal was to establish its own AM radio station to broadcast its service to Montréal listeners.

Overview of programming

4. Radio Chalom proposed to operate a commercial (ethnic and religious radio) station primarily targeting Montréal's Jewish community. Although the applicant stated that its programming would be 100% ethnic, it also proposed 70% religious programming, 55% of which would be Canadian.
5. Radio Chalom proposed to direct programming to a minimum of six cultural groups in a minimum of six different languages. It nevertheless requested exemption from section 7.(2) of the *Radio Regulations, 1986* (the Regulations), requiring licensees of ethnic stations to devote not less than 50% of a broadcast week to third-language programs. The applicant proposed instead that its programming be 40% in French, 40% in English, and 20% in third languages.

Interventions

6. The Commission received 23 letters of support and two petitions with 182 and 533 signatures, respectively, in support of Radio Chalom's application. On the other hand, the Association des radiodiffuseurs communautaires du Québec (ARCQ), Radio Centre-Ville Saint-Louis inc. (Radio Centre-Ville) and Radio Communautaire Francophone de Montréal inc., licensee of CIBL-FM Montréal, opposed any new radio licence in the Montréal market because of their concerns for the survival of community radio stations CINQ-FM and CIBL-FM Montréal and CHAA-FM Longueuil. Fred Leclair and Hyman Glustein filed a joint intervention opposing the application based on their concern that the new station would have negative impacts on radio stations currently offering ethnic programming in the Montréal market.
7. The Union des artistes (UDA) and the Société professionnelle des auteurs et des compositeurs du Québec (SPACQ) also submitted comments on the application. UDA stressed the importance it placed on promoting French-language stations in the Montréal market, while SPACQ stated, among other things, that priority should be given to broadcasting outlets that would give airplay to French-language musical selections.

Evaluating the application

8. Because the applicant proposed to operate an ethnic and religious service, the Commission considered the Radio Chalom application in light of the policy provisions set out in *Ethnic Broadcasting Policy*, Public Notice CRTC 1999-117, 16 July 1999 (the Ethnic Policy) and in *Religious Broadcasting Policy*, Public Notice CRTC 1993-78, 3 June 1993 (the Religious Policy). The Commission also took into account the factors that it generally considers in evaluating competitive applications for new commercial radio stations.¹
9. Radio Chalom's proposed frequency and technical parameters made it non-competitive on technical grounds with the other applications to serve the Montréal region, and could in the Commission's view, have represented an appropriate technical use of the proposed AM frequency. The Commission also considers that the applicant's experience in operating an SCMO service has provided Radio Chalom with the appropriate practical knowledge and sufficient resources to operate the proposed radio station. Given the relatively modest nature of the proposal from a commercial vantage point, the Commission is further satisfied that the proposed Montréal station would not have had an undue negative impact on existing radio stations.
10. Radio Chalom, however, failed to convince the Commission that its application to operate a broadcasting undertaking that is both ethnic and religious, responded to the requirements of the existing Ethnic and Religious Policies, or that it would be able to comply with those Policies and its obligations as a broadcasting licensee. Given the lack of details and clarity of the information provided by Radio Chalom, both in its application and at the public hearing, the Commission considers it important to clarify in this decision certain provisions of its Ethnic and Religious Policies as they pertain to Radio Chalom's proposals.

The Ethnic Policy

Percentage of programming in a third language

11. As noted previously, section 7.(2) of the Regulations states that a licensee operating an ethnic station shall devote not less than 50% of a broadcast week to third-language programs, i.e., a language other than English, French or a language of the Aboriginal peoples of Canada.

¹ These factors were presented for the first time in *Introductory statement – Licensing new radio stations* that introduced Decisions CRTC 99-480, 99-481 and 99-482, all dated 28 October 1999, and reiterated in *Introductory statement to Broadcasting Decisions CRTC 2003-192 to 2003-203: Applications related to radio stations in the Province of Quebec*, Broadcasting Public Notice CRTC 2003-33, 2 July 2003.

12. The Commission has considered the applicant's request for an exemption from section 7.(2) of the Regulations that would permit it to air only 20% of its programming in a third language, but finds that the onus was on the applicant to prove that such an exemption was pertinent. The Commission is of the view that the applicant has not provided necessary cause to justify such an exemption.

The Religious Policy

13. The Religious Policy defines religious as "anything directly relating to, inspired by, or arising from an individual's relationship to divinity, including related moral or ethical issues" and defines a religious program as:

...one which deals with a religious theme, including programs that examine or expound religious practices and beliefs or present a religious ceremony, service or other similar event.

14. Paragraph 3.(1)(i) of the *Broadcasting Act* (the Act) states that programming provided by the Canadian broadcasting system should be varied, balanced and, where possible, provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern. Within that context, the Commission stipulated in the Religious Policy that it remains a principal tenet of the Canadian broadcasting system that licensees should provide balance on matters of public concern. The Commission added that, since it will continue to view religious matters as being of public concern, those who broadcast religious programming have an obligation to offer differing views on matters of general public concern and, at the same time, must expose the audience to different points of view on religion itself.
15. Radio Chalom proposed a single-faith broadcasting undertaking that would provide 70% religious programming. Given the dominance of this component, the Commission considers that the onus was on the applicant to persuade the Commission that it clearly understood the Religious Policy, and that the proposals in its application were sufficient to ensure compliance with the requirements of that policy with respect to balance and ethics.
16. In its application, the applicant included a document titled *Directives de programmation*, which states that "[TRANSLATION] Radio Chalom is a spiritual, cultural and religious radio undertaking" and which specifically sets out its position on balance and the diversity of opinions. A second document titled *Code d'éthique* addresses the broadcast of news and public affairs programming. Radio Chalom stated that its application complies with all Commission requirements pertaining to the broadcast of religious programming. Nevertheless, the Commission finds that these documents, as well as the discussion held on this topic at the hearing, did little to persuade it that the applicant had a sufficient understanding of the requirements to ensure its compliance with them.

Open-line broadcasting

17. The Commission notes that the only concrete measure proposed by Radio Chalom to meet the balance requirements of the Religious Policy would be a one-hour open-line program broadcast Sunday to Thursday, for a total of five hours per week. The applicant stated that, through this program, it sought to make its proposed service accessible by individuals wishing to express differing opinions on religious matters or on any matter of public concern raised in its programming. The applicant also estimated that approximately one additional hour of balanced programming would be allocated within the remainder of its weekly programming, but did not provide more specific details.
18. In *The Commission seeks clarification of commitments by the above-noted applicants [Victory Christian Fellowship of Lethbridge (1983) Inc. and Cherry Point Community Promotion Association] regarding the provision of balance and adherence to guidelines on ethics in their proposed over-the-air television programming undertakings to broadcast religious programming*, Public Notice CRTC 1994-110, 30 August 1994 (Public Notice 1994-110), the Commission stated the following with respect to open-line broadcasting and balance requirements:

While making air time available for viewers to call in and express their opinions is one valid mechanism to achieve balance, it does not, in itself, ensure that different points of view will be presented on religion and on other matters of public concern. An applicant must make a specific commitment and formulate detailed and effective plans to ensure that different points of view are broadcast, for example, by presenting guests from other faiths on a regular basis.

19. The Commission finds that the measures proposed by Radio Chalom for soliciting points of view from other religious groups were not sufficiently concrete to ensure that its programming would be balanced. The Commission notes that the applicant proposed to achieve balance through on-air exchanges of opinion between members of the Jewish community. In the Commission's view, Radio Chalom's proposal to fulfil the balance requirements through an exchange of ideas within its own group would not have allowed it to meet the requirements of the Religious Policy.

Air time for other faith groups

20. In its application, Radio Chalom stated that, in compliance with tenets of the Jewish religion, it did not propose to broadcast programming on the Sabbath (from sunset on Friday to Saturday after dark) or on other religious holidays. The applicant stated that those broadcasting periods could be made available to groups such as those of other faiths, but that it had not taken any preparatory steps for implementing such a plan. Uncertainty thus remains regarding the programming that would fill a period of approximately 26 hours during the Sabbath of each broadcast week. Were that broadcast period made available to another faith group, the Commission notes that Radio Chalom would still retain responsibility with respect to balance issues, in accordance with paragraph 3.(1)(h) of the *Act* which states that "all persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast."

21. The Commission also reiterates its expectations and requirements pertaining to the broadcast of programming produced by other faith groups, as stated in Public Notice 1994-110:

The Commission considers that the broadcast of programming by other denominations and faith groups offers a valid means of providing alternative points of view, as well as serving the needs of the local community.

It is not sufficient, however, merely to make air time available to other groups. A broadcaster must actively solicit such programming to ensure that different views are presented. An applicant should demonstrate to the Commission that it has contacted other religious groups, and present evidence that a willingness exists on the part of other faith groups to participate. Moreover, it should indicate to the Commission how it will ensure that programming from the various faith groups in the community will continue to be available on an on-going basis.

An applicant must also satisfy the Commission that different points of view will be broadcast by providing minimum commitments regarding how often programming by other denominations and faith groups will be broadcast.

The Commission encourages applicants proposing to provide air time to groups in the community to develop policies to ensure fair access to all groups. It also encourages applicants to consider the possibility of acquiring programming that would meet the needs of local faith groups who are not able to produce their own programming.

In the event that other faith groups do not wish to provide programming for broadcast, an applicant must find another means to ensure that a variety of perspectives is provided.

The Commission's conclusion

22. On the basis of the information provided by Radio Chalom in its application and at the public hearing, the Commission does not consider that the applicant fully appreciates, or that it would be willing or able to meet the requirements of, the Ethnic and Religious Policies.
23. The Commission notes further that Radio Chalom did not provide, either in its application or at the public hearing, reliable quantitative information with respect to several matters, including the proposed weekly hours of local programming, news in general, local news and music.

24. In view of all of the above, the Commission **denies** the application by Radio Chalom for a broadcasting licence to carry on a commercial AM (ethnic and religious radio) station in Montréal.

Secretary General

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