



Broadcasting Decision CRTC 2004-513

Ottawa, 26 November 2004

Rogers Broadcasting Limited
Halifax, Nova Scotia

Application 2003-0101-0
Public Hearing at Halifax, Nova Scotia
1 March 2004

News/Talk commercial FM radio station in Halifax

*The Commission **approves** the application by Rogers Broadcasting Limited for a broadcasting licence to operate a specialty English-language commercial FM radio station in Halifax, Nova Scotia. The station will operate in a spoken word News/Talk format and share live broadcasts with the applicant's News/Talk stations in Moncton and Saint John, New Brunswick, approved today in News/Talk commercial FM radio station in Moncton, Broadcasting Decision CRTC 2004-517, 26 November 2004, and News/Talk FM commercial radio station in Saint John, Broadcasting Decision CRTC 2004-520, 26 November 2004.*

The Commission's general approach to the radio applications considered at the 1 March 2004 Public Hearing in Halifax is set out in Introduction to Broadcasting Decisions CRTC 2004-513 to 2004-525 – Licensing of new FM radio stations in Halifax, Moncton, Saint John and Fredericton, Broadcasting Public Notice CRTC 2004-91, also issued today.

Introduction

1. The Commission received an application by Rogers Broadcasting Limited (Rogers) for a broadcasting licence to operate a specialty English-language commercial FM radio programming undertaking in Halifax, Nova Scotia at 95.7 MHz (channel 239B) with an effective radiated power of 22,100 watts. Rogers proposed to operate the station in a spoken word News/Talk format and share live broadcasts with the applicant's proposed News/Talk stations in Moncton and Saint John, New Brunswick.
2. Rogers is a wholly-owned subsidiary of Rogers Media Inc. which, in turn, is a wholly-owned subsidiary of Rogers Communications Inc. Among other interests, Rogers currently owns and operates radio stations in British Columbia, Alberta, Manitoba and Ontario, but none in Atlantic Canada. Rogers also holds a 7.2% interest in Astral Media inc. Astral Media inc., through its wholly-owned subsidiary Astral Media Radio inc., owns and operates radio stations in Quebec and, through its wholly-owned subsidiary, Astral Media Radio Atlantic Inc., owns and operates radio stations in New Brunswick and Nova Scotia.

3. The Commission considered the Rogers application at a public hearing convened in Halifax on 1 March 2004. At the hearing, the Commission examined a total of 11 applications for new English-language radio services in Halifax: 10 for commercial stations and one for a community station. The Commission's general approach to the radio applications considered at the 1 March 2004 Public Hearing in Halifax is set out in *Introduction to Broadcasting Decisions CRTC 2004-513 to 2004-525 – Licensing of new FM radio stations in Halifax, Moncton, Saint John and Fredericton*, Broadcasting Public Notice CRTC 2004-91, also issued today. Based on the record of the hearing, the Commission considers that the Halifax market can accommodate four new commercial radio stations.

Interventions

4. The Commission received 13 interventions regarding Rogers' application for a spoken word News/Talk format: eight in support of the application, three in opposition, and two that provided general comments.
5. The three interventions in opposition to Rogers' application originated with other applicants that were proposing competing formats. Maritime Broadcasting System Limited (MBS), for example, agreed that the Halifax market could support more than one new FM radio station at the present time provided that the formats licensed meet demonstrable demand, target underserved demographics, and are managed by experienced operators. MBS opposed the Rogers' applications owing to its alleged lack of market demand and research, inadequate application quality, and insufficient commitment to Canadian talent development.
6. Rogers' reply to the MBS intervention referred to its own in-house research and experience, the absence of a news and information alternative to the Canadian Broadcasting Corporation's (CBC's) Radio One, and the success of News/Talk AM stations in Canada (including those stations owned by Rogers in Toronto, Vancouver and Kitchener) and in the United States. Rogers also maintained that its commitment to Canadian talent development was consistent with its News/Talk format, which is different from the music-based formats proposed by all of the other applicants.
7. CHUM Limited, the licensee of CJCH-FM and CIOO-FM in Halifax, did not support or oppose any application but cautioned the Commission not to license more than one or two new stations.
8. The Commission acknowledges all of the interventions and comments received in regard to this application and has taken them into account in arriving at its decision.

The Commission's analysis and determination

9. In the Introductory Statement to Decisions CRTC 99-480, 99-481 and 99-482, 28 October 1999, the Commission indicated that, pursuant to its *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998 (the Commercial Radio Policy), the factors set out below are generally among those relevant to the evaluation of competitive commercial radio applications:
- the quality of the application;
 - the diversity of news voices in the market;
 - the market impact of any proposed station on existing stations; and
 - the competitive state of the market.

Quality of the application

10. The Commission generally assesses the quality of an application for a new commercial radio station by examining the following:
- local programming proposals and the benefits the applicant would bring to the community;
 - commitments to Canadian content;
 - the quality of the business plan, including the proposed station format; and
 - commitments in regard to Canadian talent development.

Local programming

11. According to the applicant, locally-produced programming will account for a minimum of 50% of the programming offered by Rogers' Halifax station. A **condition of licence** to this effect is set out in the appendix to this decision. The station will produce comprehensive local news and information packages, including sports, weather and traffic, throughout the day and into the early evening hours. News and information packages varying from six to ten minutes in length will be broadcast on the hour and/or the half-hour during the morning and afternoon drive period, for a total varying from six to twenty minutes of local news and information each hour. Local news every hour will be complemented by talk, call-in and other programming focused on the local community and the Maritimes. For example, the Halifax station will produce a local program, running from noon to 2:00 p.m. on weekdays, devoted to issues, events and activities of specific interest to the community that it serves.

Canadian content

12. The great majority of the programming provided by Rogers' Halifax station will be local and regional spoken word. At the hearing, Rogers indicated that it would accept a condition of licence that permitted the station to devote no more than 10% of its broadcast week to music. A **condition of licence** to this effect is set out in the appendix to this decision.

13. The Commission further notes that, even though the amount of music that the station will broadcast is limited, the licensee will still be subject to the provisions of the *Radio Regulations, 1986* which set out minimum levels of Canadian musical selections that must be broadcast.

The quality of the business plan, including the proposed station format

14. Rogers proposed to operate the station in a spoken word News/Talk format and share live broadcasts with the applicant's proposed News/Talk format stations in Moncton and Saint John, New Brunswick. The applicant's objective was to establish three News/Talk radio stations that would facilitate informed discussion and the exchange of local and regional information, ideas and points of view.
15. Rogers initially applied to operate six FM stations in the News/Talk and Urban Top 40 formats to serve Halifax, Saint John and Moncton with the intention that the three Urban Top 40 stations would cross-subsidize the News/Talk stations. At the public hearing, Rogers clarified its proposal and stated that the licensing of the three News/Talk stations would be an acceptable licensing scenario.
16. According to the programming schedules provided by the applicant at the hearing, the station would broadcast a weekly minimum of 38 hours of news programming. This would include an all-news local morning show from 6 a.m. to 9 a.m., Monday to Friday, and a local program from noon to 2 p.m., Monday to Friday. Regional sports programming would also be broadcast, particularly in the evenings.
17. Rogers is also committed to establishing a news bureau in Fredericton with a full-time reporter and office facilities. The Commission considers that this bureau, in addition to the presence of the Halifax station, will ensure the provision of complete coverage of events in the legislatures of both Nova Scotia and New Brunswick, as well as other political and public affairs issues in the provincial capitals.
18. The Commission is satisfied that Rogers has presented a viable business plan, that local and regional operating synergies will arise from the launch of the three new stations, and that the station's proposed format can reasonably be expected to attract a significant audience in the Halifax market.
19. Consistent with its programming proposal and its intention to operate in the Specialty format, the licensee will be required to devote more than 50% of the broadcast week to spoken word programming. A **condition of licence** to this effect is set out in the appendix to this decision.

Canadian talent development

20. Rogers proposed to spend \$70,000 in direct expenditures over the first seven-year licence term to support Canadian talent development. This includes \$5,000 per year over the licence term for each of two scholarships to support the development of local broadcast journalism talent in Halifax. A **condition of licence** to this effect is set out in the

appendix to this decision. The Commission considers that the minimum amount of the budget allocation is to be made over seven consecutive broadcast years, upon commencement of operations. At the hearing, Rogers stated that discussions were in progress with universities and colleges to establish the scholarships.

21. Although Rogers declined to participate in the Canadian Talent Development Plan (the Plan) created by the Canadian Association of Broadcasters as set out in *Contributions by radio stations to Canadian talent development – A new approach*, Public Notice CRTC 1995-196, 17 November 1995 (and amended from time to time after approval by the Commission), Rogers' contribution to Canadian talent development exceeds the minimum expenditure for Halifax stations that is set out in the Plan.
22. The Commission notes that Rogers has proposed a predominantly spoken word format, unlike other applicants who proposed music-based formats, and is satisfied that the applicant's commitment to Canadian talent development is appropriate in this case.

Diversity of news voices in the market

23. The Commission notes that the Rogers News/Talk radio station would provide news and information-oriented listeners with a news and information alternative to the CBC's Radio One. Since Rogers does not currently own and operate any radio stations in the Atlantic region, its new station would increase the range and diversity of news and editorial opinion available in the Halifax area. The Commission considers that Rogers, as an experienced broadcaster, will be able to compete on a stand-alone basis with other radio licensees in the market.

Market impact on existing stations

24. The Halifax market is currently served by 13 radio stations, of which 11 are English-language and 2 are French-language stations. These stations include seven English-language commercial stations, four CBC/Société Radio-Canada stations, an English-language Type B community station (CFEP-FM Eastern Passage) and an English-language campus station.
25. In analyzing the potential market for new services, potential advertising revenues, and the market impact of any proposed station on existing stations, the Commission examined the state of the economy in Halifax using data from Statistics Canada and forecasts by the Conference Board of Canada. The Commission's review of economic indicators points to growth in the Halifax economy over the next five years.
26. Over the last five years, the aggregate profit before income and tax (PBIT) margin¹ for the Halifax radio market has been substantially above the aggregate PBIT margin for all commercial radio stations in Canada. For example, in the year ending 31 August 2003,

¹ The PBIT margin is defined as profit before interest and tax expressed as a percentage of total revenue.

the PBIT margin for Halifax attained a level of 32.8% while, for all commercial radio stations in Canada, it was 19.3%. These results suggest there is room in the market for additional commercial stations.

27. According to the applicant, listeners for the new Rogers station will be found predominantly in the 25-54 age group. Since CBC radio stations do not accept commercial advertising, advertisers currently do not have access to a radio station that consistently targets news and information-oriented listeners.
28. Rogers indicated that its new Halifax station would draw listeners from all local radio stations, including the CBC's Radio One. Because Rogers' Halifax station will, by condition of licence, be permitted to devote no more than 10% of its broadcast week to music, the Commission is of the view that the impact of this station on the advertising revenues of existing commercial stations in the Halifax market, all of which are music-oriented, will be considerably reduced.

Competitive state of the market

29. The Commission notes that, as a new entrant, Rogers will serve to increase competition in the Halifax radio market.

Cultural diversity

30. In the Commercial Radio Policy, the Commission encouraged broadcasters to reflect the cultural diversity of Canada in their programming and employment practices, especially with respect to news, music and promotion of Canadian artists.
31. The Commission expects Rogers to reflect the cultural diversity of Canada in its programming and employment practices.

Conclusion

32. The Commission considers that the News/Talk FM radio station proposed by Rogers will add to the variety and comprehensiveness of the radio programming available in the Halifax market and help to fulfil the expectations and needs of listeners in the market. Together with the new Rogers News/Talk FM radio stations in Moncton and Saint John, the new station in Halifax will contribute to the diversity of radio listening options and offer exposure to the expression of differing views on matters of public concern by providing an alternative source of news to the CBC's Radio One stations in Nova Scotia and New Brunswick. Overall, the Commission believes that the new station will make an important contribution to fulfilling the requirements of the Broadcasting Policy for Canada set out in the *Broadcasting Act* and the objectives of the Commission's Commercial Radio Policy.

33. Although Rogers' business plan estimated pre-tax losses for its proposed Halifax station over the first seven years of operation, considering Rogers' experience in programming AM stations with a similar format, the Commission is satisfied that Rogers has the experience and ability, as well as the resources, to operate its proposed Halifax FM station viably in a News/Talk format.
34. The Commission therefore **approves** the application by Rogers Broadcasting Limited for a broadcasting licence to operate a specialty English-language commercial FM radio programming undertaking in Halifax, Nova Scotia at 95.7 MHz (channel 239B) with an effective radiated power of 22,100 watts.
35. The licence will expire 31 August 2011 and will be subject to the **conditions of licence** set out in the appendix to this decision.

Issuance of the licence

36. 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.
37. 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.
38. Furthermore, the licence for this undertaking will only be issued once the applicant has 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 November 2006. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

Employment equity

39. Because this licensee is subject to the *Employment Equity Act* and files reports concerning employment equity with the Department of Human Resources and Skills Development, the Commission does not examine its employment equity practices.

Secretary General

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

Appendix to Broadcasting Decision CRTC 2004-513

Conditions of licence

1. The licence will be 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 number 5 and 8.
2. The licensee shall operate the station within the Specialty format as defined in *A review of certain matters concerning radio*, Public Notice CRTC 1995-60, 21 April 1995, as amended in *Revised content categories and subcategories for radio*, Public Notice CRTC 2000-14, 28 January 2000, as amended from time to time.
3. The licensee shall ensure that more than 50% of all programming broadcast during each broadcast week consists of material from content Category 1 - Spoken Word.
4. The licensee shall ensure that at least 50% of all programming broadcast during each broadcast week consists of local programming. The definition of local programming shall be as set out in *Policies for local programming on commercial radio stations and advertising on campus stations*, Public Notice CRTC 1993-38, 19 April 1993, as amended from time to time.
5. The licensee shall ensure that no more than 10% of all programming broadcast during each broadcast week consists of musical selections.
6. The licensee shall devote a minimum of \$10,000 during each broadcast year in direct expenditures to support the development of Canadian talent. This amount shall be devoted to scholarships to support the development of local broadcast journalism talent in Halifax.